

REFERENCE TITLE: special retirement plans; omnibus amendments

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2140

Introduced by
Representative McClure

AN ACT

AMENDING SECTIONS 9-956, 20-224, 38-801, 38-802, 38-803, 38-803.01, 38-807, 38-809, 38-815, 38-817, 38-820, 38-841, 38-842, 38-844, 38-844.03, 38-844.10, 38-846, 38-846.01, 38-847, 38-848, 38-848.01, 38-848.02, 38-849, 38-851, 38-853.01, 38-858, 38-859, 38-882, 38-883, 38-883.01, 38-885.01, 38-886, 38-886.01, 38-887, 38-888, 38-893, 38-902, 38-906, 38-907, 38-909, 41-192 AND 41-1001, ARIZONA REVISED STATUTES; AMENDING SECTION 38-857, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 297, SECTION 3; REPEALING SECTION 38-857, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2004, CHAPTER 325, SECTION 6; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2006, CHAPTER 264, SECTION 13 AND CHAPTER 308, SECTION 1; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2006, CHAPTER 264, SECTION 14 AND CHAPTER 308, SECTION 2; AMENDING SECTION 38-884, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2006, CHAPTER 241, SECTION 1; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 38-910 AND 38-911; RELATING TO SPECIAL RETIREMENT PLANS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-956, Arizona Revised Statutes, is amended to
3 read:

4 9-956. Annual audit; report of secretary; sanction

5 A. The board shall cause an annual audit and report of the fund.

6 B. The secretary shall report, using a form approved by the state fire
7 marshal, annually on or before January 1 to the board the condition of the
8 fund and the receipts and disbursements, with a complete list of its
9 beneficiaries and the amounts paid.

10 C. The board shall send a copy of the annual audit and report of the
11 fund to the state fire marshal and the Arizona state library, archives and
12 public records.

13 D. If the annual pension fund report is not received by January 31 by
14 the state fire marshal, the participating MUNICIPALITY OR fire district is
15 not eligible to receive its share of fire insurance premium tax monies under
16 section 9-952.

17 Sec. 2. Section 20-224, Arizona Revised Statutes, is amended to read:

18 20-224. Premium tax

19 A. On or before March 1 of each year each authorized domestic insurer,
20 each other insurer and each formerly authorized insurer referred to in
21 section 20-206, subsection B, ~~shall~~ shall file with the director a report in a
22 form prescribed by the director showing total direct premium income including
23 policy membership and other fees and all other considerations for insurance
24 from all classes of business whether designated as a premium or otherwise
25 received by it during the preceding calendar year on account of policies and
26 contracts covering property, subjects or risks located, resident or to be
27 performed in this state, after deducting from such total direct premium
28 income applicable cancellations, returned premiums, the amount of reduction
29 in or refund of premiums allowed to industrial life policyholders for payment
30 of premiums direct to an office of the insurer and all policy dividends,
31 refunds, savings coupons and other similar returns paid or credited to
32 policyholders within this state and not reapplied as premiums for new,
33 additional or extended insurance. No deduction shall be made of the cash
34 surrender values of policies or contracts. Considerations received on
35 annuity contracts, as well as the unabsorbed portion of any premium deposit,
36 shall not be included in total direct premium income, and neither shall be
37 subject to tax. The report shall separately indicate the total direct
38 premium income received from fire insurance premiums on property located in
39 an incorporated city or town that procures the services of a private fire
40 company.

41 B. Coincident with the filing of such tax report each insurer shall
42 pay to the director for deposit, pursuant to sections 35-146 and 35-147, a
43 tax of 2.0 per cent of such net premiums, except that the tax on fire
44 insurance premiums on property located in an incorporated city or town ~~which~~
45 THAT procures the services of a private fire company is .66 per cent, the tax

1 on all other fire insurance premiums is 2.2 per cent and the tax on health
2 care service and disability insurance premiums is as prescribed under
3 sections 20-837, 20-1010 and 20-1060. Any payments of tax pursuant to
4 subsection E of this section shall be deducted from the tax payable pursuant
5 to this subsection. Each insurer shall reflect the cost savings attributable
6 to the lower tax in fire insurance premiums charged on property located in an
7 incorporated city or town that procures the services of a private fire
8 company.

9 C. Eighty-five per cent of the tax paid ~~hereunder~~ by an insurer on
10 account of premiums received for fire insurance shall be separately specified
11 in the report and shall be apportioned in the manner provided by sections
12 9-951, 9-952 and 9-972, except that all of the tax so allocated to a fund of
13 a municipality ~~which~~ OR FIRE DISTRICT THAT has no volunteer fire fighters or
14 pension obligations to volunteer fire fighters shall be appropriated to the
15 account of the municipality OR FIRE DISTRICT in the public safety personnel
16 retirement system and all of the tax so allocated to a fund of a municipality
17 ~~which~~ OR FIRE DISTRICT THAT has both full-time paid fire fighters and
18 volunteer fire fighters or pension obligations to full-time paid fire
19 fighters or volunteer fire fighters shall be appropriated to the account of
20 the municipality OR FIRE DISTRICT in the public safety personnel retirement
21 system where it shall be reallocated by actuarial procedures proportionately
22 to the municipality OR FIRE DISTRICT for the account of the full-time paid
23 fire fighters and to the municipality OR FIRE DISTRICT for the account of the
24 volunteer fire fighters. MUNICIPALITIES AND FIRE DISTRICTS SHALL PROVIDE TO
25 THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM ALL INFORMATION THAT THE SYSTEM
26 DEEMS NECESSARY TO PERFORM THE REALLOCATION PRESCRIBED BY THIS SECTION. A
27 full accounting of such reallocation shall be forwarded to the municipality
28 OR FIRE DISTRICT and ~~both~~ THEIR local boards.

29 D. This section shall not apply to title insurance, and such insurers
30 shall be taxed as provided in section 20-1566.

31 E. Any insurer ~~which~~ THAT paid or is required to pay a tax of two
32 thousand dollars or more on net premiums received during the preceding
33 calendar year, pursuant to subsection B of this section and sections
34 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07, shall file on or before
35 the fifteenth day of each month from March through August a report for that
36 month, on a form prescribed by the director, accompanied by a payment in an
37 amount equal to fifteen per cent of the amount paid or required to be paid
38 during the preceding calendar year pursuant to subsection B of this section
39 and sections 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07. The
40 payments are due and payable on or before the fifteenth day of each month and
41 shall be made to the director for deposit, pursuant to sections 35-146 and
42 35-147.

F. Except for the tax paid on fire insurance premiums pursuant to subsections B and C of this section, an insurer may claim a premium tax credit if the insurer qualifies for a credit pursuant to section 20-224.03 or 20-224.04.

Sec. 3. Section 38-801, Arizona Revised Statutes, is amended to read:

38-801. Definitions

In this article, unless the context otherwise requires:

1. "Accumulated contributions" means the sum of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A plus the amount transferred to the fund on behalf of the member plus the amount deposited in the fund pursuant to section 38-816.

2. "Average yearly salary" means the result obtained by dividing the total salary paid to an employee during a considered period by the number of years, including fractional years, in which the salary was received. The considered period shall be the three consecutive years within the last ten completed years of credited service ~~which~~ THAT yield the highest average.

3. "Credited service" means the number of whole and fractional years of a member's service as an elected official after the elected official's effective date of participation for which member and employer contributions are on deposit with the fund, plus credited service as an elected official transferred to the plan from another retirement system or plan for public employees of this state, plus service as an elected official before the elected official's effective date of participation ~~which~~ THAT is being funded pursuant to a joinder agreement in accordance with section 38-810, subsection C and section 38-815 or ~~which~~ THAT was redeemed pursuant to section 38-816. CREDITED SERVICE DOES NOT INCLUDE PERIODS OF SERVICE FOR WHICH AN ACTIVE MEMBER IS UNCOMPENSATED BY THE EMPLOYER AND FOR WHICH NO CONTRIBUTIONS TO THE PLAN ARE MADE.

4. "Effective date of participation" means August 7, 1985, except with respect to employers and their elected officials whose contributions to the plan commence after that date, in which case the effective date of their participation in the plan is specified in the applicable joinder agreement.

5. "Elected official" means:

(a) Every elected official of this state.

(b) Every elected official of each county of this state.

(c) Every justice of the supreme court, every judge of the court of appeals, every judge of the superior court and every full-time superior court commissioner, except full-time superior court commissioners who failed to make a timely election of membership under the judges' retirement plan, repealed on August 7, 1985.

(d) The administrator of the fund manager if the administrator is a natural person.

(e) Each elected official of an incorporated city or town whose employer has executed a proper joinder agreement for coverage of its elected officials.

1 6. "ELIGIBLE CHILD" MEANS AN UNMARRIED CHILD OF A DECEASED ACTIVE OR
2 RETIRED MEMBER WHO MEETS ONE OF THE FOLLOWING QUALIFICATIONS:

- 3 (a) IS UNDER EIGHTEEN YEARS OF AGE.
4 (b) IS AT LEAST EIGHTEEN YEARS OF AGE AND UNDER TWENTY-THREE YEARS OF
5 AGE AND DURING THIS PERIOD IS A FULL-TIME STUDENT.
6 (c) IS UNDER A DISABILITY THAT BEGAN BEFORE THE CHILD ATTAINED
7 TWENTY-THREE YEARS OF AGE AND REMAINS A DEPENDENT OF THE SURVIVING SPOUSE OR
8 GUARDIAN.

9 ~~6-~~ 7. "Fund" means the elected officials' retirement plan fund.

10 ~~7-~~ 8. "Fund manager" means the fund manager of the system.

11 9. "INTERNAL REVENUE CODE" HAS THE SAME MEANING PRESCRIBED IN SECTION
12 42-1001.

13 ~~8-~~ 10. "Pension" means a series of monthly payments to a person who
14 is entitled to receive benefits under the plan.

15 ~~9-~~ 11. "Plan" means the elected officials' retirement plan.

16 12. "QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT" MEANS A PORTION
17 OF THE PLAN IF:

18 (a) THE PORTION IS MAINTAINED SOLELY TO PROVIDE TO MEMBERS OF THE PLAN
19 THAT PART OF A MEMBER'S ANNUAL BENEFIT THAT IS OTHERWISE PAYABLE UNDER THE
20 TERMS OF THE PLAN AND THAT EXCEEDS THE LIMITATIONS IMPOSED BY SECTION 415 OF
21 THE INTERNAL REVENUE CODE.

22 (b) UNDER THAT PORTION, A DIRECT OR INDIRECT ELECTION TO DEFER
23 COMPENSATION IS NOT PROVIDED AT ANY TIME TO THE MEMBER.

24 (c) EXCESS BENEFITS ARE NOT PAID FROM A TRUST THAT IS A PART OF THE
25 PLAN UNLESS THE TRUST IS MAINTAINED SOLELY FOR THE PURPOSE OF PROVIDING
26 EXCESS BENEFITS.

27 ~~10-~~ 13. "Retired member" means a person who is being paid a pension
28 based on the person's credited service as a member of the plan.

29 14. "SAME OFFICE" MEANS THE MEMBER IS IN A POSITION IN WHICH THE MEMBER
30 PERFORMS DUTIES THAT ARE THE SAME DUTIES THAT ARE PERFORMED, AND EXERCISES
31 AUTHORITY THAT IS THE SAME AUTHORITY THAT WAS EXERCISED, BY THE MEMBER BEFORE
32 THE MEMBER'S RETIREMENT.

33 ~~11-~~ 15. "System" means the public safety personnel retirement system.

34 Sec. 4. Section 38-802, Arizona Revised Statutes, is amended to read:

35 ~~38-802.~~ Elected officials' retirement plan and fund;
36 administration

37 A. The elected officials' retirement plan is established.

38 B. The elected officials' retirement plan fund is established. The
39 fund shall be made up of the assets of the judges' retirement plan and the
40 elected officials' retirement plan terminated on August 7, 1985 plus the
41 assets generated by this plan and the assets of the administrator of the fund
42 manager in the state employees retirement plan on the date of transfer plus
43 any assets transferred to the fund in accordance with a joinder
44 agreement. The fund shall be used exclusively for payment of benefits to
45 retired members or their beneficiaries as provided in this article and for

1 payment of the administration, operation and investment expenses of the
2 plan. In no case shall any portion of the fund revert or otherwise be paid
3 to an employer.

4 C. The fund manager shall administer, manage and operate the plan and
5 fund.

6 D. THE ELECTED OFFICIALS' RETIREMENT PLAN IS A JURAL ENTITY THAT MAY
7 SUE AND BE SUED.

8 Sec. 5. Section 38-803, Arizona Revised Statutes, is amended to read:
9 38-803. Powers and duties of the fund manager

10 A. The fund manager, in the administration, management and operation
11 of the plan and fund, shall:

12 1. Account for the operation, administration and investment expenses
13 and allocate them against investment income.

14 2. Contract on a fee basis with an actuary to make an actuarial
15 valuation of the plan based on the valuation method and valuation assumptions
16 recommended by the actuary and approved by the fund manager. The actuary
17 shall be a member of the American academy of actuaries.

18 3. Contract on a fee basis with an independent auditing firm to make
19 an annual audit of the accounting records of the fund and file a copy of the
20 audit with the auditor general.

21 4. Invest the monies in the fund as provided in section 38-848.

22 5. Within a period of six months after the close of each fiscal year,
23 submit a detailed report of the operation and the investment performance of
24 the plan to the governor, the legislature and the members of the plan.

25 6. By November 1 of each year provide a preliminary report and by
26 December 15 of each year provide a final report to the governor, the speaker
27 of the house of representatives and the president of the senate on the
28 contribution rate for the ensuing fiscal year.

29 B. The fund manager, in the administration, management and operation
30 of the plan and fund, may:

31 1. Employ services as it deems necessary.

32 2. Either keep invested monies separate or commingle invested monies
33 as it deems appropriate.

34 3. Delegate authority as it deems necessary and prudent to the
35 administrator employed pursuant to section 38-848, subsection K, paragraph 6.

36 4. Do all acts, whether expressly authorized, ~~which~~ THAT may be deemed
37 necessary or proper for the protection of the fund.

38 5. APPEAR ON BEHALF OF THE PLAN IN A COURT THROUGH COUNSEL OR AN
39 APPOINTED REPRESENTATIVE TO PROTECT THE PLAN. THE ATTORNEY GENERAL SHALL
40 OBTAIN THE WRITTEN CONSENT OF THE FUND MANAGER IN ORDER TO SETTLE A CLAIM ON
41 BEHALF OF THE FUND MANAGER OR THE PLAN PURSUANT TO SECTION 41-192. WITHOUT
42 THIS CONSENT, THE PLAN IS NOT BOUND BY ANY SETTLEMENT PURPORTED TO BE
43 NEGOTIATED ON ITS BEHALF BY THE ATTORNEY GENERAL.

1 Sec. 6. Section 38-803.01, Arizona Revised Statutes, is amended to
2 read:

3 38-803.01. Qualified governmental excess benefit arrangement

4 A. The fund manager may establish a qualified governmental excess
5 benefit arrangement for the sole purpose of enabling the fund manager to
6 continue to apply the same formula for determining benefits payable to all
7 employees covered by the plan whose benefits under the plan are limited by
8 section 415 of the internal revenue code.

9 B. The fund manager shall administer the qualified governmental excess
10 benefit arrangement. The fund manager has full discretionary fiduciary
11 authority to determine all questions arising in connection with the
12 arrangement, including its interpretation and any factual questions arising
13 under the arrangement.

14 C. All members and retired members of the plan are eligible to
15 participate in the qualified governmental excess benefit arrangement if their
16 benefits under the plan would exceed the limitations imposed by section 415
17 of the internal revenue code.

18 D. On or after the effective date of the qualified governmental excess
19 benefit arrangement, the employer shall pay to each eligible member of the
20 plan who retires on or after the effective date and to each retired member
21 who retired before the effective date and that member's beneficiary, if
22 required, a supplemental pension benefit equal to the amount by which the
23 benefit that would have been payable under the plan, without regard to any
24 provisions in the plan incorporating the limitation on benefits imposed by
25 section 415 of the internal revenue code, exceeds the benefit actually
26 payable taking into account the limitation imposed on the plan by section 415
27 of the internal revenue code. The fund manager shall compute and pay the
28 supplemental pension benefits under the same terms and conditions and to the
29 same person as the benefits payable to or on account of a retired member
30 under the plan.

31 E. The employer shall not fund benefits payable under the qualified
32 governmental excess benefit arrangement. The employer shall pay benefits
33 payable under the qualified governmental excess benefit arrangement out of
34 the general assets of the employer. For administrative purposes, the
35 employer may establish a grantor trust for the benefit of eligible members.
36 The employer shall be treated as grantor of the trust for purposes of section
37 677 of the internal revenue code. The rights of any person to receive
38 benefits under the qualified governmental excess benefit arrangement are
39 limited to those of a general creditor of the employer.

40 F. The terms and conditions contained in the plan, other than those
41 relating to the benefit limitation imposed by section 415 of the internal
42 revenue code, apply, unless the terms and conditions are inconsistent with
43 the purpose of the qualified governmental excess benefit arrangement.

1 ~~G. For the purposes of this section:~~
2 ~~1. "Internal revenue code" has the same meaning prescribed in section~~
3 ~~42-1001.~~
4 ~~2. "Qualified governmental excess benefit arrangement" means a portion~~
5 ~~of the plan if:~~
6 ~~(a) The portion is maintained solely to provide to members of the plan~~
7 ~~that part of a member's annual benefit that is otherwise payable under the~~
8 ~~terms of the plan and that exceeds the limitations imposed by section 415 of~~
9 ~~the internal revenue code.~~
10 ~~(b) Under that portion, a direct or indirect election to defer~~
11 ~~compensation is not provided at any time to the member.~~
12 ~~(c) Excess benefits are not paid from a trust that is a part of the~~
13 ~~plan unless the trust is maintained solely for the purpose of providing~~
14 ~~excess benefits.~~
15 Sec. 7. Section 38-807, Arizona Revised Statutes, is amended to read:
16 38-807. Survivor pensions
17 A. The surviving spouse of a DECEASED retired member shall be paid a
18 SURVIVING SPOUSE'S pension ~~which terminates on the death of the surviving~~
19 ~~spouse if the retired member was married to the surviving spouse for at least~~
20 ~~two years. The surviving spouse's pension under this subsection is~~
21 ~~three-fourths of the amount the retired member was receiving at the time of~~
22 ~~the member's death.~~
23 ~~B. The surviving spouse of an active or inactive member who dies~~
24 ~~before retirement shall be paid a pension which terminates on the death of~~
25 ~~the surviving spouse if the active or inactive member was married to the~~
26 ~~surviving spouse for at least two years.~~
27 ~~C. The surviving spouse's pension under subsection B of this section~~
28 ~~is three-fourths of the amount of pension computed according to section~~
29 ~~38-808, subsection B, paragraph 2 under the assumption that the member had~~
30 ~~retired for reason of disability immediately before death. IF THE SPOUSE WAS~~
31 ~~MARRIED TO THE MEMBER FOR A PERIOD OF AT LEAST TWO CONSECUTIVE YEARS AT THE~~
32 ~~TIME OF THE MEMBER'S DEATH. PAYMENT OF A SURVIVING SPOUSE'S PENSION~~
33 ~~COMMENCES AS OF THE LAST DAY OF THE MONTH FOLLOWING THE RETIRED MEMBER'S DATE~~
34 ~~OF DEATH. THE LAST PAYMENT SHALL BE MADE AS OF THE LAST DAY OF THE MONTH IN~~
35 ~~WHICH THE SURVIVING SPOUSE'S DEATH OCCURS. THE AMOUNT OF PENSION PAID A~~
36 ~~SURVIVING SPOUSE IS EQUAL TO THREE-FOURTHS OF THE AMOUNT OF THE DECEASED~~
37 ~~RETIRED MEMBER'S PENSION AT THE TIME OF DEATH. THE SURVIVING SPOUSE SHALL~~
38 ~~FILE A WRITTEN APPLICATION WITH THE PLAN IN ORDER TO RECEIVE THE SURVIVOR~~
39 ~~BENEFIT.~~
40 B. THE SURVIVING SPOUSE OF A DECEASED ACTIVE OR INACTIVE MEMBER SHALL
41 BE PAID A SURVIVING SPOUSE'S PENSION IF THE SPOUSE WAS MARRIED TO THE MEMBER
42 ON THE DATE OF THE MEMBER'S DEATH. PAYMENT OF A SURVIVING SPOUSE'S PENSION
43 COMMENCES AS OF THE LAST DAY OF THE MONTH FOLLOWING THE MEMBER'S DATE OF
44 DEATH. THE LAST PAYMENT SHALL BE MADE AS OF THE LAST DAY OF THE MONTH IN
45 WHICH THE SURVIVING SPOUSE'S DEATH OCCURS. FOR THE PURPOSES OF THIS

1 SUBSECTION, THE SURVIVING SPOUSE'S PENSION SHALL BE THREE-FOURTHS OF THE
 2 AMOUNT CALCULATED IN THE SAME MANNER AS A DISABILITY PENSION IS CALCULATED
 3 PURSUANT TO SECTION 38-806. THE SURVIVING SPOUSE SHALL FILE A WRITTEN
 4 APPLICATION WITH THE PLAN IN ORDER TO RECEIVE THE SURVIVOR BENEFIT.

5 ~~D.~~ C. If the deceased retired or active or inactive member does not
 6 have an eligible surviving spouse or the pension of the eligible surviving
 7 spouse is terminated, each ~~surviving unmarried child of the deceased retired~~
 8 ~~or active or inactive member shall be paid a~~ ELIGIBLE CHILD IS ENTITLED TO
 9 RECEIVE A CHILD'S pension ~~which terminates on adoption or the attainment of~~
 10 ~~age eighteen unless the child is a full-time student under the age of~~
 11 ~~twenty-three or the child is under a disability which began before the child~~
 12 ~~attained the age of twenty-three.~~ A CHILD'S PENSION TERMINATES IF THE CHILD
 13 IS ADOPTED. IN THE CASE OF A DISABLED CHILD, THE CHILD'S PENSION TERMINATES
 14 IF THE CHILD CEASES TO BE UNDER A DISABILITY OR CEASES TO BE A DEPENDENT OF
 15 THE SURVIVING SPOUSE OR GUARDIAN. The amount of the pension of each
 16 ~~surviving minor child of a deceased retired or active or inactive member~~
 17 ELIGIBLE CHILD is an equal share of the amount of the surviving spouse's
 18 pension. The surviving minor OR DISABLED child's pension shall be paid to
 19 the person who is the legally appointed guardian or custodian of the eligible
 20 child.

21 ~~E.~~ D. If a member dies and no pension is payable on account of the
 22 member's death, the deceased member's accumulated contributions shall be paid
 23 to the person or persons designated by the deceased member in writing and
 24 filed with the fund manager. If the designated person or persons do not
 25 survive the deceased member, the accumulated contributions shall be paid to
 26 the estate of the deceased member.

27 Sec. 8. Section 38-809, Arizona Revised Statutes, is amended to read:

28 38-809. Correction of pension payment errors; assignments
 29 prohibited; civil liability; restitution or payment
 30 of fine; violation; classification; offset of benefits

31 A. If the plan has made pension payments based on incorrect
 32 information and a person or an estate has been paid more or less than the
 33 person or estate ~~would~~ SHOULD have been paid ~~if the information had been~~
 34 ~~correct~~, the fund manager shall adjust future payments so that the proper
 35 amount is paid. The adjustment may be made in such a manner that the
 36 equivalent actuarial present value of the benefit to which the person or
 37 estate is correctly entitled is paid.

38 B. Notwithstanding any other statute, benefits, member contributions
 39 or court fees including interest earnings and all other credits payable under
 40 the plan are not subject in any manner to anticipation, alienation, sale,
 41 transfer, assignment, pledge, encumbrance, charge, garnishment, execution or
 42 levy of any kind, either voluntary or involuntary, before actually being
 43 received by the person entitled to the benefit, contribution, earning or
 44 credit under the terms of the plan, and any attempt to dispose of any right
 45 under the terms of the plan as proscribed in this subsection is void. The

1 fund is not liable for or subject to the debts, contracts, liabilities,
2 enlargements or torts of any person entitled to a benefit, contribution,
3 earning or credit under the terms of the plan.

4 C. Nothing in this section exempts employee benefits of any kind from
5 a writ of attachment, a writ of execution, a writ of garnishment and orders
6 of assignment issued by a court of record as the result of a judgment for
7 arrearages of child support or for child support debt.

8 D. A person who defrauds the plan or who takes, converts, steals or
9 embezzles monies owned by or from the plan and who fails or refuses to return
10 the monies to the plan on the fund manager's written request is subject to a
11 civil suit by the plan in the superior court ~~of~~ IN Maricopa county. On entry
12 of an order finding the person has defrauded the plan or taken, converted,
13 stolen or embezzled monies owned by or from the plan, the court shall enter
14 an order against that person and for the plan awarding the plan all of its
15 costs and expenses of any kind, including attorney fees, that were necessary
16 to successfully prosecute the action. The court shall also grant the plan a
17 judicial lien on all of the nonexempt property of the person against whom
18 judgment is entered pursuant to this subsection in an amount equal to all
19 amounts awarded to the plan, plus interest at the rate prescribed by section
20 44-1201, subsection A, until all amounts owed are paid to the plan.

21 E. IF A MEMBER IS CONVICTED OF, OR DISCHARGED BECAUSE OF, THEFT,
22 EMBEZZLEMENT, FRAUD OR MISAPPROPRIATION OF AN EMPLOYER'S PROPERTY OR PROPERTY
23 UNDER THE CONTROL OF THE EMPLOYER, THE MEMBER IS SUBJECT TO RESTITUTION AND
24 FINES IMPOSED BY A COURT OF COMPETENT JURISDICTION. THE COURT MAY ORDER THE
25 RESTITUTION OR FINES TO BE PAID FROM ANY PAYMENTS OTHERWISE PAYABLE TO THE
26 MEMBER FROM THE PLAN.

27 F. A PERSON WHO KNOWINGLY MAKES ANY FALSE STATEMENT OR WHO FALSIFIES
28 OR PERMITS TO BE FALSIFIED ANY RECORD OF THE PLAN WITH AN INTENT TO DEFRAUD
29 THE PLAN IS GUILTY OF A CLASS 6 FELONY. IF ANY CHANGE OR ERROR IN THE
30 RECORDS RESULTS IN ANY MEMBER OR BENEFICIARY RECEIVING FROM THE PLAN MORE OR
31 LESS THAN THE MEMBER OR BENEFICIARY WOULD HAVE BEEN ENTITLED TO RECEIVE HAD
32 THE RECORDS BEEN CORRECT, THE PLAN SHALL CORRECT THE ERROR, AND AS FAR AS
33 PRACTICABLE SHALL ADJUST THE PAYMENTS IN SUCH A MANNER THAT THE ACTUARIAL
34 EQUIVALENT OF THE BENEFIT TO WHICH THE MEMBER OR BENEFICIARY WAS CORRECTLY
35 ENTITLED TO RECEIVE SHALL BE PAID. IF A MEMBER IS CONVICTED OF A CRIME
36 PURSUANT TO THIS SUBSECTION, THE MEMBER IS ENTITLED TO RECEIVE A LUMP SUM
37 PAYMENT OF THE MEMBER'S ACCUMULATED CONTRIBUTIONS BUT FORFEITS ANY FUTURE
38 COMPENSATION AND BENEFITS THAT WOULD OTHERWISE ACCRUE TO THE MEMBER OR THE
39 MEMBER'S ESTATE UNDER THIS ARTICLE.

40 ~~E.~~ G. Notwithstanding any other provision of this article, the fund
41 manager may offset against any benefits otherwise payable by the plan to an
42 active or retired member or survivor any court ordered amounts awarded to the
43 fund manager and plan and assessed against the member or survivor.

1 Sec. 9. Section 38-815, Arizona Revised Statutes, is amended to read:
2 38-815. Joinder agreement

3 A. Elected officials of an incorporated city or town may participate
4 in the plan if the governing body of the city or town enters into a joinder
5 agreement with the fund manager on behalf of its elected officials and the
6 employer unconditionally accepts the provisions of the plan and binds its
7 elected officials thereto. All elected officials shall be designated for
8 membership unless written consent to the contrary is obtained from the fund
9 manager. A member shall be qualified for participation in order to obtain
10 written consent to the contrary from the fund manager.

11 B. The effective date of participation shall be specifically
12 stipulated in the joinder agreement.

13 C. Any city or town ~~which~~ THAT is considering participation in the
14 plan shall request a preliminary actuarial survey to determine the estimated
15 cost of participation, the benefits to be derived and such other information
16 as may be deemed appropriate. The cost of such survey shall be paid by the
17 city or town requesting it.

18 D. All assets under any existing public employee defined benefit
19 retirement program, to the extent attributable to the city's or town's
20 elected officials, shall be transferred from the program to this fund no
21 later than sixty days after the city's or town's effective date of
22 participation. That portion of the transferred assets ~~which~~ THAT is
23 attributable to the elected official's contributions, including interest
24 credits thereon, shall be properly allocated to each affected elected
25 official of the city or town and credited to the elected official's
26 accumulated contributions, in accordance with a schedule furnished by the
27 city or town to the fund manager.

28 E. IF A CITY OR TOWN HAS PAID ASSETS INTO THE PLAN PURSUANT TO A
29 JOINDER AGREEMENT AND NO LONGER HAS ELECTED OFFICIALS PARTICIPATING IN THE
30 PLAN, ANY SURPLUS MONIES DEPOSITED IN THE PLAN REVERT TO THE PLAN.

31 Sec. 10. Section 38-817, Arizona Revised Statutes, is amended to read:
32 38-817. Group health and accident coverage for retired members;
33 payment; definition

34 A. The fund manager shall pay from the assets of the fund part of the
35 single coverage premium of any group health and accident insurance for each
36 retired member or survivor of the elected officials' retirement plan who
37 receives a pension if the retired member had eight or more years of credited
38 service under the plan. In order to qualify for payment pursuant to this
39 subsection, the retired member or survivor shall elect single coverage and
40 must have elected to participate in the coverage provided in section
41 38-651.01 or 38-782 or any other health and accident insurance coverage
42 provided or administered by a participating employer of the elected
43 officials' retirement plan. The fund manager shall pay up to:

1 1. One hundred fifty dollars per month, OR THE ACTUAL COST OF THE
2 MONTHLY INSURANCE PREMIUM, WHICHEVER IS LESS, for each retired member or
3 survivor of the plan who is not eligible for medicare.

4 2. One hundred dollars per month, OR THE ACTUAL COST OF THE MONTHLY
5 INSURANCE PREMIUM, WHICHEVER IS LESS, for each retired member or survivor of
6 the plan who is eligible for medicare.

7 B. The fund manager shall pay from the assets of the fund part of the
8 family coverage premium of any group health and accident insurance each month
9 for a ~~benefit recipient~~ RETIRED MEMBER OR SURVIVOR who elects family coverage
10 and who otherwise qualifies for payment pursuant to subsection A of this
11 section. The fund manager shall pay up to:

12 1. Two hundred sixty dollars per month, OR THE ACTUAL COST OF THE
13 MONTHLY INSURANCE PREMIUM, WHICHEVER IS LESS, if the retired member or
14 survivor of the plan and one or more dependents are not eligible for
15 medicare.

16 2. One hundred seventy dollars per month, OR THE ACTUAL COST OF THE
17 MONTHLY INSURANCE PREMIUM, WHICHEVER IS LESS, if the retired member or
18 survivor of the plan and one or more dependents are eligible for medicare.

19 3. Two hundred fifteen dollars per month, OR THE ACTUAL COST OF THE
20 MONTHLY INSURANCE PREMIUM, WHICHEVER IS LESS, if either:

21 (a) The retired member or survivor of the plan is not eligible for
22 medicare and one or more dependents are eligible for medicare.

23 (b) The retired member or survivor of the plan is eligible for
24 medicare and one or more dependents are not eligible for medicare.

25 C. Each retired member or survivor of the plan with less than eight
26 years of credited service and a dependent of such a retired member or
27 survivor who participates in the coverage provided by section 38-651.01 or
28 38-782 or who participates in any other health and accident insurance
29 coverage provided or administered by a participating employer of the plan is
30 entitled to receive a proportion of the full benefit prescribed by subsection
31 A, B, E, ~~OR F, G or H~~ of this section according to the following schedule:

32 1. 7.0 to 7.9 years of credited service, ninety per cent.

33 2. 6.0 to 6.9 years of credited service, seventy-five per cent.

34 3. 5.0 to 5.9 years of credited service, sixty per cent.

35 4. Those with less than five years of credited service do not qualify
36 for the benefit.

37 D. The fund manager shall not pay more than the amount prescribed in
38 this section for a benefit recipient as a RETIRED member or survivor of the
39 plan.

40 ~~E. In addition to the payments provided by subsection A of this~~
41 ~~section, through June 30, 2005, the fund manager shall pay an insurance~~
42 ~~premium benefit for medical coverage, not including limited benefit coverage~~
43 ~~as defined in section 20-1137, for each retired member or survivor of the~~
44 ~~plan who is entitled to a premium benefit payment pursuant to subsection A of~~
45 ~~this section and who lives in a nonservice area as follows:~~

~~1. Up to three hundred dollars per month for a retired member or survivor of the plan who is not eligible for medicare and who has eight or more years of credited service. To qualify for this additional benefit, a retired member or survivor shall pay out of pocket medical insurance premiums of at least one hundred twenty five dollars per month.~~

~~2. Up to one hundred seventy dollars per month for a retired member or survivor of the plan who is eligible for medicare and who has eight or more years of credited service. To qualify for this additional benefit, a retired member or survivor shall pay out of pocket medical insurance premiums of at least one hundred dollars per month.~~

~~F. In addition to the payments provided by subsection B of this section, through June 30, 2005, the fund manager shall pay an insurance premium benefit for medical coverage, not including limited benefit coverage as defined in section 20-1137, for a retired member or survivor of the plan who is entitled to a premium benefit payment pursuant to subsection B of this section, who is enrolled in a family medical plan and who lives in a nonservice area as follows:~~

~~1. Up to six hundred dollars per month if the retired member or survivor of the plan and one or more dependents are not eligible for medicare and the retired member or survivor of the plan has eight or more years of credited service. To qualify for this additional benefit, a retired member or survivor shall pay out of pocket medical insurance premiums of at least four hundred twenty five dollars per month.~~

~~2. Up to three hundred fifty dollars per month if the retired member or survivor of the plan and one or more dependents are eligible for medicare and the retired member or survivor of the plan has eight or more years of credited service. To qualify for this additional benefit, a retired member or survivor shall pay out of pocket medical insurance premiums of at least two hundred dollars per month.~~

~~3. If the retired member or survivor of the plan has eight or more years of credited service, up to four hundred seventy dollars per month if either:~~

~~(a) The retired member or survivor of the plan is not eligible for medicare and one or more dependents are eligible for medicare.~~

~~(b) The retired member or survivor of the plan is eligible for medicare and one or more dependents are not eligible for medicare.~~

~~To qualify for this additional benefit, a retired member or survivor shall pay out of pocket medical insurance premiums of at least four hundred dollars per month.~~

~~G.~~ E. In addition to the payments provided by subsection A of this section, beginning July 1, 2005 through June 30, 2007, the fund manager shall pay an insurance premium benefit for medical coverage, not including limited benefit coverage as defined in section 20-1137, for each medicare eligible retired member or survivor of the plan who is entitled to a premium benefit payment pursuant to subsection A of this section and who lives in a

1 nonservice area of up to one hundred seventy dollars per month for a retired
 2 member or survivor of the plan who is eligible for medicare and who has eight
 3 or more years of credited service. To qualify for this additional benefit, a
 4 retired member or survivor shall pay out-of-pocket medical insurance premiums
 5 of at least one hundred dollars per month.

6 ~~H.~~ F. In addition to the payments provided by subsection B of this
 7 section, beginning July 1, 2005 through June 30, 2007, the fund manager shall
 8 pay an insurance premium benefit for medical coverage, not including limited
 9 benefit coverage as defined in section 20-1137, for a medicare eligible
 10 retired member or survivor of the plan who is entitled to a premium benefit
 11 payment pursuant to subsection B of this section, who is enrolled in a family
 12 medical plan and who lives in a nonservice area as follows:

13 1. Up to three hundred fifty dollars per month if the retired member
 14 or survivor of the plan and one or more dependents are eligible for medicare
 15 and the retired member or survivor of the plan has eight or more years of
 16 credited service. To qualify for this additional benefit, a retired member
 17 or survivor shall pay out-of-pocket medical insurance premiums of at least
 18 two hundred dollars per month.

19 2. If the retired member or survivor of the plan has eight or more
 20 years of credited service, up to four hundred seventy dollars per month
 21 if the retired member or survivor of the plan is eligible for medicare and
 22 one or more dependents are not eligible for medicare. To qualify for this
 23 additional benefit, a retired member or survivor shall pay out-of-pocket
 24 medical insurance premiums of at least four hundred dollars per month.

25 ~~I.~~ G. A retired member or survivor of the plan who is enrolled in a
 26 managed care program in a nonservice area is not eligible for the payment
 27 prescribed in subsection E, ~~OR F, G or H~~ of this section ~~if the member~~
 28 ~~terminates coverage under the managed care program.~~

29 ~~J.~~ H. A retired member or survivor of the plan may elect to purchase
 30 individual health care coverage and receive a payment pursuant to this
 31 section through the retired member's employer if that employer assumes the
 32 administrative functions associated with the payment, including verification
 33 that the payment is used to pay for health insurance coverage if the payment
 34 is made to the retired member or survivor of the plan.

35 I. THIS SECTION DOES NOT APPLY TO A RETIRED MEMBER OR SURVIVOR OF THE
 36 PLAN WHO IS REEMPLOYED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE
 37 AND WHO PARTICIPATES IN COVERAGE PROVIDED BY THIS STATE OR A POLITICAL
 38 SUBDIVISION OF THIS STATE AS A CURRENT EMPLOYEE. THOSE RETIRED MEMBERS OR
 39 SURVIVORS WHO ARE REEMPLOYED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS
 40 STATE AND WHO ARE CURRENTLY RECEIVING THE SUBSIDY PROVIDED BY THIS SECTION ON
 41 THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION MAY CONTINUE TO RECEIVE
 42 THE SUBSIDY AS LONG AS THE RETIRED MEMBER OR SURVIVOR CONTINUES EMPLOYMENT
 43 WITH THE SAME STATE AGENCY OR POLITICAL SUBDIVISION. ON TERMINATION OF THE
 44 EMPLOYMENT OR ON TRANSFER TO ANOTHER STATE AGENCY OR POLITICAL SUBDIVISION,
 45 THE FUND MANAGER SHALL DISCONTINUE THE PAYMENTS PROVIDED BY THIS SECTION,

UNTIL THE RETIRED MEMBER OR SURVIVOR AGAIN BECOMES QUALIFIED TO RECEIVE A SUBSIDY PURSUANT TO THIS SECTION.

~~K.~~ J. For the purposes of this section, "nonservice area" means an area in this state in which the Arizona state retirement system pursuant to section 38-782, the department of administration pursuant to section 38-651.01 or the member's or survivor's participating employer does not provide or administer a health care services organization program, excluding any preferred provider organization program or individual health indemnity policy, for which the retired member or survivor of the plan is eligible.

Sec. 11. Section 38-820, Arizona Revised Statutes, is amended to read:

38-820. Credit for military service; national guard or reserve members; payment of contributions during active military service

A. A member of the plan may receive credited service for PERIODS OF active military service PERFORMED BEFORE EMPLOYMENT WITH THE MEMBER'S CURRENT EMPLOYER if:

1. The member was honorably separated from the military service.
2. The period of military service for which the member receives credited service does not exceed forty-eight months.

3. The period of military service for which the member receives credited service is not on account with any other retirement system, EXCEPT AS PROVIDED BY 10 UNITED STATES CODE SECTION 12736.

4. THE MEMBER PAYS THE COST TO PURCHASE THE PRIOR ACTIVE MILITARY SERVICE. THE COST IS THE AMOUNT NECESSARY TO EQUAL THE INCREASE IN THE ACTUARIAL PRESENT VALUE OF PROJECTED BENEFITS RESULTING FROM THE CREDIT USING THE ACTUARIAL METHODS AND ASSUMPTIONS ADOPTED BY THE PLAN'S ACTUARY.

~~B. Except as provided in subsection C, the cost to the member to purchase military credited service pursuant to this section is the amount necessary to equal the increase in the actuarial present value of projected benefits resulting from the credit.~~

~~C. For a period of time of active military service but for not more than forty-eight months, an employer shall make employer contributions and member contributions for a person who was an active member of the plan on the day before the person began active military service, who satisfies the requirement of subsection A, paragraph 3 and who satisfies the following requirements:~~

B. EXCEPT AS REQUIRED BY THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (38 UNITED STATES CODE SECTION 4312(c)), A MEMBER OF THE PLAN MAY RECEIVE CREDITED SERVICE FOR NOT MORE THAN SIXTY MONTHS OF MILITARY SERVICE WHILE EMPLOYED BY THE MEMBER'S CURRENT EMPLOYER IF:

1. THE MEMBER is a member of the Arizona national guard or is a member of the reserves of any military establishment of the United States.

~~2. Volunteers or is ordered into active military service of the United States as part of a presidential call-up.~~

2. THE MEMBER WAS A MEMBER OF THE PLAN ON THE DAY BEFORE THE MEMBER BEGAN MILITARY SERVICE.

3. THE PERIOD OF MILITARY SERVICE FOR WHICH THE MEMBER RECEIVES CREDITED SERVICE IS NOT ON ACCOUNT WITH ANY OTHER RETIREMENT SYSTEM, EXCEPT AS PROVIDED BY 10 UNITED STATES CODE SECTION 12736.

~~3-~~ 4. THE MEMBER is honorably separated from ~~active~~ military service and returns to employment for the same employer from which the ~~person~~ MEMBER left for ~~active~~ military service within ninety days after the date ~~active~~ military service is terminated or is hospitalized as a result of military service and returns to employment for the same employer from which the ~~person~~ MEMBER left for ~~active~~ military service within ninety days after release from service related hospitalization or dies as a result of the military service.

C. FOR PERIODS OF TIME OF ACTIVE MILITARY SERVICE DUE TO A PRESIDENTIAL CALL-UP, NOT TO EXCEED FORTY-EIGHT MONTHS, AN EMPLOYER SHALL MAKE EMPLOYER AND MEMBER CONTRIBUTIONS PURSUANT TO SUBSECTION G.

D. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, FOR PERIODS OF TIME OF ACTIVE MILITARY SERVICE DUE TO A PRESIDENTIAL CALL-UP IN EXCESS OF FORTY-EIGHT MONTHS, AND FOR ALL OTHER PERIODS OF MILITARY SERVICE, AN EMPLOYER SHALL MAKE EMPLOYER CONTRIBUTIONS AND THE MEMBER SHALL MAKE MEMBER CONTRIBUTIONS. THE EMPLOYER MAY ELECT TO MAKE BOTH THE EMPLOYER AND THE MEMBER CONTRIBUTIONS CORRESPONDING TO PERIODS OF MILITARY SERVICE BEING PURCHASED PURSUANT TO THIS SECTION EXCEPT AS PROHIBITED BY LAW.

~~D-~~ E. Contributions made pursuant to subsection C OR D shall be for the period of time beginning on the date the member began ~~active~~ military service and ending on one of the following dates:

1. The date the member is separated from ~~active~~ military service.
2. The date the member is released from service related hospitalization or one year after initiation of service related hospitalization, whichever date is earlier.
3. The date the member dies as a result of ~~active~~ military service.

~~E-~~ F. Notwithstanding any other law, on payment of the contributions made pursuant to subsection C OR D, the member shall be credited with service for retirement purposes for the period of time of ~~active~~ military service of not more than ~~forty-eight~~ SIXTY months.

~~F-~~ G. FOR PERIODS OF ACTIVE MILITARY SERVICE DUE TO A PRESIDENTIAL CALL-UP, the employer shall make contributions pursuant to subsection C OR D based on the salary being received by the member immediately before the member volunteered or was ordered into active military service in a lump sum and without penalty when the member returns to employment or on receipt of the member's death certificate. If a member suffers a ~~MILITARY~~ service related death, the employer shall make the employer and member contributions up to and including the date of the member's death. Death benefits shall be calculated as prescribed by law. FOR ALL OTHER PERIODS OF MILITARY SERVICE, THE MEMBER HAS UP TO THREE TIMES THE PERIOD OF MILITARY SERVICE, UP TO A MAXIMUM OF FIVE YEARS, TO MAKE MEMBER CONTRIBUTIONS PURSUANT TO SUBSECTION D

1 BASED ON THE SALARY BEING RECEIVED BY THE MEMBER IMMEDIATELY BEFORE THE
 2 MEMBER'S MILITARY SERVICE. ONCE THE MEMBER MAKES THE MEMBER CONTRIBUTIONS,
 3 THE EMPLOYER SHALL PAY THE EMPLOYER CONTRIBUTIONS.

4 ~~G.~~ H. Service credits for ~~active~~ military service shall not be
 5 applied to the member's account until such time as complete payment as
 6 determined in ~~either subsection B or C~~ THIS SECTION is made to the ~~retirement~~
 7 plan.

8 ~~H.~~ I. ~~A member~~ AN APPLICANT shall submit a copy of the military
 9 discharge certificate (DD-256A) and a copy of the military service record
 10 (DD-214) or its equivalent with the ~~member's~~ application when applying for
 11 ~~credited service for active~~ THE military service CREDIT, except that members
 12 of the Arizona national guard and military reserves ordered into active
 13 military service as part of a presidential call-up are only required to
 14 submit a copy of the military service record (DD-214) or its equivalent.

15 ~~I.~~ J. Notwithstanding any other law, the member is not required to
 16 reimburse the member's employer or the plan for any EMPLOYER contribution
 17 made pursuant to subsection C.

18 Sec. 12. Section 38-841, Arizona Revised Statutes, is amended to read:

19 38-841. Purpose; vested benefits

20 A. Prior to the establishment of the public safety personnel
 21 retirement system, municipal firemen and policemen, employees of the Arizona
 22 highway patrol, and other public safety personnel in the state of Arizona
 23 were covered under various local, municipal, and state retirement
 24 programs. These heterogeneous programs provided for wide and significant
 25 differentials in employee contribution rates, benefit eligibility provisions,
 26 types of benefit protection, and benefit formulas.

27 B. In order to provide a uniform, consistent and equitable statewide
 28 program for public safety personnel who are regularly assigned hazardous duty
 29 in the employ of the state of Arizona or a political subdivision thereof,
 30 this retirement system was created effective as of July 1, 1968, as an
 31 amendment to and continuation of three prior systems. Groups of employees
 32 covered under the three prior systems as of June 30, 1968, and the assets and
 33 liabilities accumulated thereunder for such employees, are transferred with
 34 prior service credits to this retirement system as of the effective date, and
 35 both they and their employers shall be required to make stipulated
 36 contributions to support the system's benefit structure on a sound actuarial
 37 basis. Future employees in such groups shall commence participation in, and
 38 contributions to, the system immediately upon commencement of covered
 39 employment.

40 C. The provisions of this system shall not be construed to authorize
 41 the granting of any retirement benefits to persons who are retired as of the
 42 effective date of this article, except as described in sections 38-849 and
 43 38-853.

1 D. Additional eligible groups of public safety personnel will
2 participate in the system pursuant to election by their employer for such
3 coverage under an appropriate joinder agreement.

4 E. THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM IS A JURAL ENTITY
5 THAT MAY SUE AND BE SUED.

6 Sec. 13. Section 38-842, Arizona Revised Statutes, is amended to read:
7 38-842. Definitions

8 In this article, unless the context otherwise requires:

9 1. "Accidental disability" means a physical or mental condition ~~which~~
10 THAT the local board finds totally and permanently prevents an employee from
11 performing a reasonable range of duties within the employee's job
12 classification and was incurred in the performance of the employee's duty.

13 2. "Accumulated contributions" means, for each member, the sum of the
14 amount of the member's aggregate contributions made to the fund and the
15 amount, if any, attributable to the employee's contributions prior to the
16 member's effective date under another public retirement system, other than
17 the federal social security act, and transferred to the fund minus the
18 benefits paid to or on behalf of the member.

19 3. "Actuarial equivalent" means equality in present value of the
20 aggregate amounts expected to be received under two different forms of
21 payment, based on mortality and interest assumptions adopted by the fund
22 manager. The fund manager may from time to time change the mortality and
23 interest assumptions.

24 4. "ALLOWABLE CATASTROPHIC DISABILITY PENSIONS" MEANS FOR CALENDAR
25 YEAR 2004, TEN, AND FOR SUBSEQUENT CALENDAR YEARS THE NUMBER OF ALLOWABLE
26 CATASTROPHIC DISABILITY PENSIONS ALLOWED IN THE PRIOR CALENDAR YEAR MINUS THE
27 NUMBER OF CATASTROPHIC DISABILITY PENSIONS APPROVED BY THE LOCAL BOARDS IN
28 THE PRIOR CALENDAR YEAR PLUS FOUR.

29 5. "ANNUITANT" MEANS A PERSON WHO IS RECEIVING A BENEFIT PURSUANT TO
30 SECTION 38-846.01.

31 ~~4.~~ 6. "Average monthly benefit compensation" means the result
32 obtained by dividing the total compensation paid to an employee during a
33 considered period by the number of months, including fractional months, in
34 which such compensation was received. The considered period shall be the
35 three consecutive years within the last twenty completed years of credited
36 service ~~which~~ THAT yield the highest average. In the computation under this
37 paragraph a period of nonpaid or partially paid industrial leave shall be
38 considered based on the compensation the employee would have received in the
39 employee's job classification if the employee was not on industrial leave.

40 ~~5.~~ 7. "Catastrophic disability" means a physical and not a
41 psychological condition that the local board determines prevents the employee
42 from totally and permanently engaging in any gainful employment and that
43 results from a physical injury incurred in the performance of the employee's
44 duty.

~~6-~~ 8. "Certified peace officer" means a peace officer certified by the Arizona peace officers standards and training board.

~~7-~~ 9. "Claimant" means any member or beneficiary who files an application for benefits pursuant to this article.

~~8-~~ 10. "Compensation" means, for the purpose of computing retirement benefits, base salary, overtime pay, shift differential pay and holiday pay paid to an employee by the employer on a regular monthly, semimonthly or biweekly payroll basis and longevity pay paid to an employee at least every six months for which contributions are made to the system pursuant to section 38-843, subsection D. Compensation does not include, for the purpose of computing retirement benefits, payment for unused sick leave, payment in lieu of vacation, payment for compensatory time or payment for any fringe benefits. For the purposes of this paragraph, "base salary" means the amount of compensation each employee is regularly paid for personal services rendered to an employer before the addition of any extra monies, including overtime pay, shift differential pay, holiday pay, longevity pay, fringe benefit pay and similar extra payments.

~~9-~~ 11. "Credited service" means the member's total period of service prior to the member's effective date of participation, plus those compensated periods of the member's service thereafter for which the member made contributions to the fund.

~~10-~~ 12. "Depository" means a bank in which all monies of the system are deposited and held and from which all expenditures for benefits, expenses and investments are disbursed.

~~11-~~ 13. "Effective date of participation" means July 1, 1968, except with respect to employers and their covered employees whose contributions to the fund commence thereafter, the effective date of their participation in the system is as specified in the applicable joinder agreement.

~~12-~~ 14. "Effective date of vesting" means the date a member's rights to benefits vest pursuant to section 38-844.01.

~~13-~~ 15. "Eligible child" means ~~the~~ AN unmarried child of a deceased member OR RETIRED MEMBER who MEETS ONE OF THE FOLLOWING QUALIFICATIONS:

(a) Is under ~~the age of~~ eighteen YEARS OF AGE. ~~or~~
 (b) IS AT LEAST EIGHTEEN YEARS OF AGE AND UNDER TWENTY-THREE YEARS OF AGE AND DURING THIS PERIOD IS a full-time student. ~~who is under the age of twenty-three or~~

(c) IS under a disability ~~which~~ THAT began before the child attained ~~the age of~~ twenty-three YEARS OF AGE and ~~who~~ remains a dependent of the surviving spouse or guardian.

~~14-~~ 16. "Eligible groups" means only the following who are regularly assigned to hazardous duty:

- (a) Municipal police officers who are certified peace officers.
- (b) Municipal fire fighters.
- (c) Paid full-time fire fighters employed directly by a fire district organized pursuant to section 48-803 or 48-804 with three or more full-time

1 fire fighters, but not including fire fighters employed by a fire district
2 pursuant to a contract with a corporation.

3 (d) State highway patrol officers who are certified peace officers.

4 (e) State fire fighters.

5 (f) County sheriffs and deputies who are certified peace officers.

6 (g) Fish and game wardens who are certified peace officers.

7 (h) Police officers who are certified peace officers and fire fighters
8 of a nonprofit corporation operating a public airport pursuant to sections
9 28-8423 and 28-8424. A police officer shall be designated pursuant to
10 section 28-8426 to aid and supplement state and local law enforcement
11 agencies and a fire fighter's sole duty shall be to perform fire fighting
12 services, including services required by federal regulations.

13 (i) Police officers who are certified peace officers and who are
14 appointed by the Arizona board of regents.

15 (j) Police officers who are certified peace officers and who are
16 appointed by a community college district governing board.

17 (k) State attorney general investigators who are certified peace
18 officers.

19 (l) County attorney investigators who are certified peace officers.

20 (m) Police officers who are certified peace officers and who are
21 employed by an Indian reservation police agency.

22 (n) Fire fighters who are employed by an Indian reservation fire
23 fighting agency.

24 (o) Police officers who are certified peace officers and who are
25 appointed by the department of administration.

26 (p) Department of liquor licenses and control investigators who are
27 certified peace officers.

28 (q) Arizona department of agriculture officers who are certified peace
29 officers.

30 (r) Arizona state parks board rangers and managers who are certified
31 peace officers.

32 (s) County park rangers who are certified peace officers.

33 ~~15-~~ 17. "Employee" means any person who is employed by a participating
34 employer and who is a member of an eligible group but does not include any
35 persons compensated on a contractual or fee basis. If an eligible group
36 requires certified peace officer status and at the option of the local board,
37 employee may include a person who is training to become a certified peace
38 officer.

39 ~~16-~~ 18. "Employers" means:

40 (a) Cities contributing to the fire fighters' relief and pension fund
41 as provided in sections 9-951 through 9-971 or statutes amended thereby and
42 antecedent thereto, as of June 30, 1968 on behalf of their full-time paid
43 fire fighters.

44 (b) Cities contributing under the state police pension laws as
45 provided in sections 9-911 through 9-934 or statutes amended thereby and

1 antecedent thereto, as of June 30, 1968 on behalf of their municipal
2 policemen.

3 (c) The state highway patrol covered under the state highway patrol
4 retirement system.

5 (d) The state, or any political subdivision thereof, including but not
6 limited to towns, cities, fire districts, counties and nonprofit corporations
7 operating public airports pursuant to sections 28-8423 and 28-8424, which has
8 elected to participate in the system on behalf of an eligible group of public
9 safety personnel pursuant to a joinder agreement entered into after July 1,
10 1968.

11 (e) Indian tribes ~~which~~ THAT have elected to participate in the system
12 on behalf of an eligible group of public safety personnel pursuant to a
13 joinder agreement entered into after July 1, 1968.

14 ~~17-~~ 19. "Fund" means the public safety personnel retirement fund,
15 which is the fund established to receive and invest contributions accumulated
16 under the system and from which benefits are paid.

17 ~~18-~~ 20. "Fund manager" means the fund manager of the system, who are
18 the persons appointed to invest and operate the fund.

19 21. "INTERNAL REVENUE CODE" HAS THE SAME MEANING PRESCRIBED IN SECTION
20 42-1001.

21 22. "KILLED IN THE LINE OF DUTY" MEANS THE DECEDENT'S DEATH WAS THE
22 DIRECT AND PROXIMATE RESULT OF THE PERFORMANCE OF THE DECEDENT'S PUBLIC
23 SAFETY DUTIES AND DOES NOT INCLUDE SUICIDE.

24 ~~19-~~ 23. "Local board" means the retirement board of the employer, who
25 are the persons appointed to administer the system as it applies to their
26 members in the system.

27 ~~20-~~ 24. "Member" means any employee who meets all of the following
28 qualifications:

29 (a) Who is either a full-time paid municipal police officer, a
30 full-time paid fire fighter, a law enforcement officer who is employed by the
31 state including the director thereof, a state fire fighter who is primarily
32 assigned to fire fighting duties, a fire fighter or police officer of a
33 nonprofit corporation operating a public airport pursuant to sections 28-8423
34 and 28-8424, all ranks designated by the Arizona law enforcement merit system
35 council, a state attorney general investigator who is a certified peace
36 officer, a county attorney investigator who is a certified peace officer, a
37 police officer who is appointed by the department of administration and who
38 is a certified peace officer, a department of liquor licenses and control
39 investigator who is a certified peace officer, an Arizona department of
40 agriculture officer who is a certified peace officer, an Arizona state parks
41 board ranger or manager who is a certified peace officer, a county park
42 ranger who is a certified peace officer, a person who is a certified peace
43 officer and who is employed by an Indian reservation police agency, a fire
44 fighter who is employed by an Indian reservation fire fighting agency or an
45 employee included in a group designated as eligible employees under a joinder

1 agreement entered into by their employer after July 1, 1968 and who is or was
2 regularly assigned to hazardous duty.

3 (b) Who, on or after the employee's effective date of participation,
4 is receiving compensation for personal services rendered to an employer or
5 would be receiving compensation except for an authorized leave of absence.

6 (c) Whose employment with an employer commenced prior to attainment of
7 age fifty.

8 (d) Whose customary employment is at least forty hours per week and
9 for more than six months in a calendar year.

10 (e) Who has not attained age sixty-five prior to the employee's
11 effective date of participation or who was over age sixty-five with
12 twenty-five years or more of service prior to the employee's effective date
13 of participation.

14 ~~21-~~ 25. "Normal retirement date" means the first day of the calendar
15 month immediately following an employee's completion of twenty years of
16 service or the employee's sixty-second birthday and the employee's completion
17 of fifteen years of service.

18 ~~22-~~ 26. "Ordinary disability" means a physical condition ~~which~~ THAT
19 the local board determines will prevent an employee totally and permanently
20 from performing a reasonable range of duties within the employee's department
21 or a mental condition ~~which~~ THAT the local board determines will prevent an
22 employee totally and permanently from engaging in any substantial gainful
23 activity.

24 ~~23-~~ 27. "Pension" means a series of monthly amounts ~~which~~ THAT are
25 payable to a person who is entitled to receive benefits under the plan, BUT
26 DOES NOT INCLUDE AN ANNUITY THAT IS PAYABLE PURSUANT TO SECTION 38-846.01.

27 28. "QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT" MEANS A PORTION
28 OF THE SYSTEM IF:

29 (a) THE PORTION IS MAINTAINED SOLELY TO PROVIDE TO MEMBERS OF THE
30 SYSTEM THAT PART OF A MEMBER'S ANNUAL BENEFIT THAT IS OTHERWISE PAYABLE UNDER
31 THE TERMS OF THE SYSTEM AND THAT EXCEEDS THE LIMITATIONS IMPOSED BY SECTION
32 415 OF THE INTERNAL REVENUE CODE.

33 (b) UNDER THAT PORTION, A DIRECT OR INDIRECT ELECTION TO DEFER
34 COMPENSATION IS NOT PROVIDED AT ANY TIME TO THE MEMBER.

35 (c) EXCESS BENEFITS ARE NOT PAID FROM A TRUST THAT IS A PART OF THE
36 SYSTEM UNLESS THE TRUST IS MAINTAINED SOLELY FOR THE PURPOSE OF PROVIDING
37 EXCESS BENEFITS.

38 ~~24-~~ 29. "Regularly assigned to hazardous duty" means regularly
39 assigned to duties of the type normally expected of municipal police
40 officers, municipal or state fire fighters, eligible fire district fire
41 fighters, state highway patrol officers, county sheriffs and deputies, fish
42 and game wardens, fire fighters and police officers of a nonprofit
43 corporation operating a public airport pursuant to sections 28-8423 and
44 28-8424, police officers who are appointed by the Arizona board of regents or
45 a community college district governing board, state attorney general

1 investigators who are certified peace officers, county attorney investigators
2 who are certified peace officers, police officers who are appointed by the
3 department of administration and who are certified peace officers, department
4 of liquor licenses and control investigators who are certified peace
5 officers, Arizona department of agriculture officers who are certified peace
6 officers, Arizona state parks board rangers and managers who are certified
7 peace officers, county park rangers who are certified peace officers, police
8 officers who are certified peace officers and are employed by an Indian
9 reservation police agency or fire fighters who are employed by an Indian
10 reservation fire fighting agency. Those individuals who are assigned solely
11 to support duties such as secretaries, stenographers, clerical personnel,
12 clerks, cooks, maintenance personnel, mechanics and dispatchers are not
13 assigned to hazardous duty regardless of their position classification
14 title. Since the normal duties of municipal police officers, municipal or
15 state fire fighters, eligible fire district fire fighters, state highway
16 patrol officers, county sheriffs and deputies, fish and game wardens, fire
17 fighters and police officers of a nonprofit corporation operating a public
18 airport pursuant to sections 28-8423 and 28-8424, police officers who are
19 appointed by the Arizona board of regents or a community college district
20 governing board, state attorney general investigators who are certified peace
21 officers, county attorney investigators who are certified peace officers,
22 police officers who are appointed by the department of administration and who
23 are certified peace officers, department of liquor licenses and control
24 investigators who are certified peace officers, Arizona department of
25 agriculture officers who are certified peace officers, Arizona state parks
26 board rangers and managers who are certified peace officers, county park
27 rangers who are certified peace officers, police officers who are certified
28 peace officers and are employed by an Indian reservation police agency and
29 fire fighters who are employed by an Indian reservation fire fighting agency
30 are constantly changing, questions as to whether a person is or was
31 previously regularly assigned to hazardous duty shall be resolved by the
32 local board on a case-by-case basis. Resolutions by local boards are subject
33 to rehearing and appeal.

34 ~~25.~~ 30. "Retirement" OR "RETIRED" means termination of employment
35 after a member has fulfilled all requirements for a pension. Retirement
36 shall be considered as commencing on the first day of the month immediately
37 following a member's last day of employment or authorized leave of absence,
38 if later.

39 31. "SAME POSITION" MEANS THE MEMBER IS IN A POSITION IN WHICH THE
40 MEMBER PERFORMS DUTIES THAT ARE THE SAME DUTIES THAT WERE PERFORMED, AND
41 EXERCISES AUTHORITY THAT IS THE SAME AUTHORITY THAT WAS EXERCISED, BY THE
42 MEMBER BEFORE THE MEMBER'S RETIREMENT.

43 ~~26.~~ 32. "Service" means the last period of continuous employment of an
44 employee by the employers prior to the employee's retirement or the
45 employee's sixty-fifth birthday, whichever first occurs, except that if such

period includes employment during which the employee would not have qualified as a member had the system then been effective, such as employment as a volunteer fire fighter, then only twenty-five per cent of such noncovered employment shall be considered as service. Any absence ~~which~~ **THAT** is authorized by an employer shall not be considered as interrupting continuity of employment if the employee returns within the period of authorized absence. Transfers between employers also shall not be considered as interrupting continuity of employment. Any period during which a member is receiving sick leave payments or a temporary disability pension shall be considered as service. Any period during which a person was employed as a full-time paid fire fighter by a fire district pursuant to a contract with a corporation within that fire district shall be considered as service if it is part of the person's last period of continuous employment with that corporation in that fire district and the fire district has elected to treat the period as service in its applicable joinder agreement. Any reference in this system to the number of years of service of an employee shall be deemed to include fractional portions of a year.

~~27.~~ 33. "State" means the state of Arizona, including any department, office, board, commission, agency or other instrumentality of the state.

~~28.~~ 34. "System" means the public safety personnel retirement system established by this article.

~~29.~~ 35. "Temporary disability" means a physical or mental condition ~~which~~ **THAT** the local board finds totally and temporarily prevents an employee from performing a reasonable range of duties within the employee's department and ~~which~~ **THAT** was incurred in the performance of the employee's duty.

Sec. 14. Section 38-844, Arizona Revised Statutes, is amended to read:

38-844. Requirements for retirement benefits and disability pensions

A. A member ~~shall be~~ **IS** eligible for a normal pension ~~upon~~ **ON** retirement on or after the member's normal retirement date. Payment of a normal pension shall commence as of the first day of the month following the date of retirement, and the last payment shall be made as of the last day of the month in which the death of the retired member occurs.

B. A member is eligible for an accidental disability pension if the member's employment is terminated by reason of accidental disability.

C. A member is eligible for an ordinary disability pension if the member's employment is terminated before the member's normal retirement date by reason of ordinary disability. ~~A member shall file an application for a disability pension after the disabling incident or within one year after the date the member ceases to be an employee. Timely application for an accidental, catastrophic or ordinary disability pension is a prerequisite to receipt of the pension. Payment of an accidental, catastrophic or ordinary disability pension shall commence as of the first day of the month following the date of retirement or the expiration of a period during which the member is receiving sick leave payments or a temporary disability pension, whichever~~

~~is later. The last payment shall be made as of the last day of the month in which the death of the retired member occurs, or if disability ceases prior to the member's normal retirement date, the first day of the month in which disability ceases.~~

~~C. D. A member is eligible for a catastrophic disability pension if the member's employment is terminated by reason of catastrophic disability. If more than the allowable catastrophic disability pensions are approved by the local boards in a calendar year, from and after December 31 of the following calendar year a member of the system is not eligible to apply for a catastrophic disability pension. On or before January 31, the fund manager shall report to the president of the senate and the speaker of the house of representatives the number of catastrophic disability pensions that were approved by the local boards in the preceding calendar year. For the purposes of this subsection, "allowable catastrophic disability pensions" means for calendar year 2004, ten, and for subsequent calendar years the number of allowable catastrophic disability pensions allowed in the prior calendar year minus the number of catastrophic disability pensions approved by the local boards in the prior calendar year plus four.~~

E. A MEMBER SHALL FILE AN APPLICATION FOR AN ACCIDENTAL, CATASTROPHIC OR ORDINARY DISABILITY PENSION AFTER THE DISABLING INCIDENT OR WITHIN ONE YEAR AFTER THE DATE THE MEMBER CEASES TO BE AN EMPLOYEE. TIMELY APPLICATION FOR AN ACCIDENTAL, CATASTROPHIC OR ORDINARY DISABILITY PENSION IS A PREREQUISITE TO RECEIPT OF THE PENSION. PAYMENT OF AN ACCIDENTAL, CATASTROPHIC OR ORDINARY DISABILITY PENSION COMMENCES AS OF THE FIRST DAY OF THE MONTH FOLLOWING THE DATE OF RETIREMENT OR THE EXPIRATION OF A PERIOD DURING WHICH THE MEMBER IS RECEIVING SICK LEAVE PAYMENTS OR A TEMPORARY DISABILITY PENSION, WHICHEVER IS LATER. THE LAST PAYMENT SHALL BE MADE AS OF THE LAST DAY OF THE MONTH IN WHICH THE DEATH OF THE RETIRED MEMBER OCCURS, OR IF DISABILITY CEASES BEFORE THE MEMBER'S NORMAL RETIREMENT DATE, THE FIRST DAY OF THE MONTH IN WHICH THE DISABILITY CEASES. FOR THE PURPOSES OF THIS SECTION AND SECTIONS 38-844.02 THROUGH 38-844.10, A MEMBER WHO IS RECEIVING A DISABILITY PENSION IS DEEMED TO HAVE TERMINATED EMPLOYMENT BY REASON OF THE DISABILITY.

~~D. F.~~ F. Notwithstanding any other provision of this section, no member shall qualify for an accidental, catastrophic or ordinary disability pension if the local board determines that the ~~member's~~ disability results from the following:

1. An injury suffered while engaged in a felonious criminal act or enterprise.

2. Service in the armed forces of the United States ~~which~~ THAT entitles the member to a veteran's disability pension.

3. A physical or mental condition or injury that existed or occurred prior to the member's date of membership in the system.

1 ~~E.~~ G. Accidental or ordinary disability shall be considered to have
 2 ceased and an accidental or ordinary disability pension terminates if the
 3 member:

4 1. Has sufficiently recovered, in the opinion of the local board,
 5 based on a medical examination by a physician or clinic appointed by the
 6 local board, to be able to engage in a reasonable range of duties within the
 7 member's department and the member refuses an offer of employment by an
 8 employer in the system.

9 2. Refuses to undergo any medical examination requested by the board,
 10 provided that a medical examination shall not be required more frequently
 11 than once in any calendar year.

12 ~~F.~~ H. Sixty months after the award of a catastrophic disability
 13 pension, the local board shall reevaluate the member **TO DETERMINE WHETHER THE**
 14 **MEMBER IS STILL CATASTROPHICALLY DISABLED.** If the member still qualifies for
 15 the catastrophic disability pension, the member is entitled to continue to
 16 receive the pension at the reduced amount prescribed in section 38-845,
 17 subsection E. A catastrophic disability shall be considered to have ceased
 18 and a catastrophic disability pension terminates if the local board
 19 determines that the member has sufficiently recovered and is able to engage
 20 in gainful employment based on a medical examination by a physician or a
 21 clinic appointed by the local board. ~~After the sixty month review, the~~
 22 ~~catastrophic disability shall be considered to have ceased and a catastrophic~~
 23 ~~disability pension terminates if the local board determines that the member~~
 24 ~~has sufficiently recovered and is able to engage in gainful employment based~~
 25 ~~on a medical examination by a physician or a clinic appointed by the local~~
 26 ~~board, except that the medical examination shall not be required more~~
 27 ~~frequently than once in a calendar year.~~ The medical review after the sixty
 28 month period does not apply after the date the catastrophic disability
 29 pensioner would have attained twenty-five years of service assuming the
 30 pensioner remained a member of the system. The local board shall also
 31 terminate a catastrophic disability pension if the member refuses to undergo
 32 any medical examination requested by the board. A member whose catastrophic
 33 disability pension is terminated may apply for and if eligible is entitled to
 34 receive an accidental disability pension as provided in this section.

35 ~~G.~~ I. Subsection ~~E.~~ G of this section does not apply after a
 36 disability pensioner's normal retirement date. The amount of a disability
 37 pension shall not be recomputed at a disability pensioner's normal retirement
 38 date.

39 ~~H.~~ J. An ordinary disability pension shall be reduced in the period
 40 prior to the member's normal retirement date if the member engages in any
 41 employment and if the member's income from this employment is greater than
 42 the member's pension unreduced by this subsection. The amount of the
 43 reduction shall be equal to the difference between the member's income from
 44 employment and the member's unreduced pension. The local board shall have
 45 the right to suspend payments of an ordinary disability pension if the

1 disabled member fails to report earned income. Such suspension shall be for
 2 the period there is no satisfactory report with restoration of benefits ~~upon~~
 3 ~~ON THE LOCAL BOARD'S~~ acceptance of such report or until the member's normal
 4 retirement date, whichever occurs earlier. If, in the opinion of the local
 5 board, the reduction provided in this subsection is insufficient to recover
 6 monies previously paid to a member, each local board, in its sole discretion,
 7 may bring an action to recover any outstanding balance due, notwithstanding
 8 any other rights the local board possesses.

9 ~~I-~~ K. If accidental or ordinary disability ceases before a retired
 10 member attains the member's normal retirement date and the member is
 11 reemployed by an employer, the pension payable upon the member's subsequent
 12 retirement shall be determined as provided in section 38-849, subsection D.

13 ~~J-~~ L. A member shall be eligible for a temporary disability pension
 14 if the member's employment is terminated prior to the member's normal
 15 retirement date by reason of temporary disability. Payment of a temporary
 16 disability pension shall commence as of the first day of the month following
 17 the date of disability or the expiration of a period during which the member
 18 is receiving ANY compensation and sick leave payments, whichever is
 19 later. The last payment shall be made as of the first day of the month in
 20 which either the death of the member occurs or the local board deems the
 21 member is no longer under temporary disability, whichever first occurs,
 22 provided that no more than twelve monthly temporary disability payments shall
 23 be made in total to the member.

24 ~~K-~~ M. If upon the expiration of a temporary disability pension the
 25 local board finds upon application that the member has an accidental or
 26 ordinary disability, the member shall be eligible for an accidental or
 27 ordinary disability pension, as provided in this section.

28 Sec. 15. Section 38-844.03, Arizona Revised Statutes, is amended to
 29 read:

30 38-844.03. Eligibility: participation

31 A. Any member who is eligible for a normal pension pursuant to section
 32 38-844, subsection A, ~~and~~ who has at least twenty years of credited service,
 33 ~~WHO HAS NOT ELECTED TO PARTICIPATE IN THE REVERSE DEFERRED RETIREMENT OPTION~~
 34 ~~PLAN PURSUANT TO SECTION 38-844.10 OR WHO IS NOT AWARDED AN ORDINARY,~~
 35 ~~CATASTROPHIC OR ACCIDENTAL DISABILITY PENSION~~ is eligible to participate in
 36 the deferred retirement option plan. In addition, any member who is subject
 37 to section 38-858, subsection ~~C-~~ B is eligible to participate in the deferred
 38 retirement option plan retroactive to the member's twentieth year of credited
 39 service or on the day before the member began active military service,
 40 whichever is later, if the member makes the election pursuant to this section
 41 on or before resuming employment with the member's employer.

42 B. A member who elects to participate in the deferred retirement
 43 option plan shall voluntarily and irrevocably:

44 1. Designate a period of participation that is not more than sixty
 45 consecutive months.

1 2. Beginning on the date the member elects to participate in the
2 deferred retirement option plan, cease to accrue benefits under any other
3 provision of this article. The member's effective date of participation is
4 the first day of the month following the date the member elects to
5 participate.

6 3. Have deferred retirement option plan benefits credited to a
7 deferred retirement option plan participation account pursuant to section
8 38-844.05.

9 4. Receive benefits from the system on termination of employment at
10 the same time and in the same manner as otherwise prescribed in this article.

11 5. Agree to terminate employment on completion of the deferred
12 retirement option plan participation period designated by the member on the
13 appropriate deferred retirement option plan participation form.

14 C. If a member fails to terminate employment on completion of the
15 designated deferred retirement option plan participation period:

16 1. The member is not entitled to the interest accumulation on the
17 deferred retirement option plan participation account.

18 2. The deferred retirement option plan participation account shall not
19 be credited with the monthly amount prescribed in section 38-844.05,
20 subsection C, paragraph 1 and that amount shall not be paid directly to the
21 member.

22 3. The payment prescribed in section 38-844.08, subsection A,
23 paragraph 1 shall not be paid until the member terminates employment and is
24 payable at the same time as the pension amount is paid on retirement.

25 4. The member does not acquire any further credited service in the
26 system.

27 Sec. 16. Section 38-844.10, Arizona Revised Statutes, is amended to
28 read:

29 38-844.10. Reverse deferred retirement option plan

30 A. A reverse deferred retirement option plan is established. The
31 purpose of the reverse deferred retirement option plan is to add flexibility
32 to the system and to provide members who elect to participate in the reverse
33 deferred retirement option plan access to a lump sum benefit in addition to
34 their normal monthly retirement benefit on actual retirement.

35 B. The fund manager shall offer the reverse deferred retirement option
36 plan to members on a voluntary basis as an alternative method of benefit
37 accrual under the system.

38 C. Any member who is eligible for a normal pension pursuant to section
39 38-844, subsection A, who has not elected to participate in the deferred
40 retirement option plan pursuant to section 38-844.03, **WHO IS NOT AWARDED AN**
41 **ACCIDENTAL, CATASTROPHIC OR ORDINARY DISABILITY** and who has at least twenty
42 years of credited service is eligible to participate in the reverse deferred
43 retirement option plan.

44 D. A member who elects to participate in the reverse deferred
45 retirement option plan shall voluntarily and irrevocably:

1 1. Designate a reverse deferred retirement option plan date that is
2 the first day of the calendar month immediately following a member's
3 completion of twenty years of credited service or a date not more than sixty
4 consecutive months before the date the member elects to participate in the
5 reverse deferred retirement option plan, whichever is later.

6 2. Agree to terminate employment on the date the member elects to
7 participate in the reverse deferred retirement option plan.

8 3. Receive benefits from the system on termination of employment at
9 the same time and in the same manner as otherwise prescribed in this article
10 using the factors of credited service and average monthly benefit
11 compensation in effect on the reverse deferred retirement option plan date.

12 E. On election, a reverse deferred retirement option plan
13 participation account is established within the system on behalf of each
14 reverse deferred retirement option plan participant. All benefits accrued
15 pursuant to this article shall be accounted for in the reverse deferred
16 retirement option plan participation account. A reverse deferred retirement
17 option plan participant does not have a claim on the assets of the system
18 with respect to the member's reverse deferred retirement option plan
19 participation account and assets shall not be set aside for any reverse
20 deferred retirement option plan participant that are separate from all other
21 system assets.

22 F. All amounts credited to a member's reverse deferred retirement
23 option plan participation account are fully vested.

24 G. A member's reverse deferred retirement option plan participation
25 account shall be credited with the following:

26 1. An amount that is credited as though accrued monthly from the
27 reverse deferred retirement option plan date to the date the member elected
28 to participate in the reverse deferred retirement option plan and that is
29 computed in the same manner as a normal retirement benefit using the factors
30 of credited service and average monthly benefit compensation in effect on the
31 reverse deferred retirement option plan date.

32 2. An amount that is credited as though accrued monthly and that
33 represents interest at a rate equal to three and one-half per cent.

34 H. Employee and employer contributions pursuant to section 38-843 that
35 are deposited during the period of the reverse deferred retirement option
36 plan are not eligible to be refunded to the employer or member.

37 I. The participant is not entitled to receive any amount prescribed by
38 section 38-856 or 38-857 during the reverse deferred retirement option plan
39 participation period.

40 J. The form of payment shall be a lump sum distribution. If allowed
41 by the internal revenue service, the participant may elect to transfer the
42 lump sum distribution to an eligible retirement plan or individual retirement
43 account.

44 K. The reverse deferred retirement option plan shall not jeopardize in
45 any way the tax qualified status of the system under the rules of the

1 internal revenue service. The fund manager may adopt additional provisions
2 to the extent necessary or appropriate for the reverse deferred retirement
3 option plan to comply with applicable federal laws or rules.

4 Sec. 17. Section 38-846, Arizona Revised Statutes, is amended to read:

5 38-846. Death benefits

6 A. ~~If the spouse of a member or retired member is surviving at such~~
7 ~~member's death, the spouse shall be eligible for a surviving spouse's~~
8 ~~pension, provided that such spouse had been married to the decedent either~~
9 ~~for a period of at least two years prior to such member's date of death or~~
10 ~~during such member's service. THE SURVIVING SPOUSE OF A DECEASED RETIRED~~
11 ~~MEMBER SHALL BE PAID A SURVIVING SPOUSE'S PENSION IF THE SPOUSE WAS MARRIED~~
12 ~~TO THE MEMBER FOR A PERIOD OF AT LEAST TWO CONSECUTIVE YEARS AT THE TIME OF~~
13 ~~THE MEMBER'S DEATH. Payment of a surviving spouse's pension shall commence~~
14 ~~as of the last day of the month following the member's or retired member's~~
15 ~~date of death. The last payment shall be made as of the last day of the~~
16 ~~month in which the surviving spouse's death occurs.~~

17 B. THE SURVIVING SPOUSE OF A DECEASED MEMBER SHALL BE PAID A SURVIVING
18 SPOUSE'S PENSION IF THE SPOUSE WAS MARRIED TO THE MEMBER ON THE DATE OF THE
19 MEMBER'S DEATH. PAYMENT OF A SURVIVING SPOUSE'S PENSION COMMENCES AS OF THE
20 LAST DAY OF THE MONTH FOLLOWING THE MEMBER'S DATE OF DEATH. THE LAST PAYMENT
21 SHALL BE MADE AS OF THE LAST DAY OF THE MONTH IN WHICH THE SURVIVING SPOUSE'S
22 DEATH OCCURS.

23 C. The surviving spouse of a deceased retired member ~~shall~~ IS ENTITLED
24 TO receive a monthly amount equal to four-fifths of the monthly amount of
25 pension ~~which~~ THAT the decedent would have received immediately before
26 death. ~~The surviving spouse of a deceased member who was not killed in the~~
27 ~~line of duty or did not die from injuries suffered in the line of duty shall~~
28 ~~receive a monthly amount computed as for the surviving spouse of a deceased~~
29 ~~retired member, under the assumption that the member had retired for reason~~
30 ~~of accidental disability immediately before death. The surviving spouse of a~~
31 ~~deceased member who is killed in the line of duty or dies from injuries~~
32 ~~suffered in the line of duty is entitled to receive a monthly amount equal to~~
33 ~~the deceased member's average monthly benefit compensation less any amount~~
34 ~~payable for an eligible child under this section. A member who was eligible~~
35 ~~for or receiving a temporary disability pension at the time of the member's~~
36 ~~death is not deemed to be retired for the purposes of this subsection. For~~
37 ~~the purposes of this subsection, "killed in the line of duty" means the~~
38 ~~decedent's death was the direct and proximate result of the performance of~~
39 ~~the decedent's public safety duties and does not include suicide.~~

40 D. THE SURVIVING SPOUSE OF A DECEASED MEMBER WHO WAS NOT KILLED IN THE
41 LINE OF DUTY OR DID NOT DIE FROM INJURIES SUFFERED IN THE LINE OF DUTY IS
42 ENTITLED TO RECEIVE A MONTHLY AMOUNT CALCULATED IN THE SAME MANNER AS AN
43 ACCIDENTAL DISABILITY PENSION IS CALCULATED PURSUANT TO SECTION 38-845. THE
44 SURVIVING SPOUSE OF A DECEASED MEMBER WHO IS KILLED IN THE LINE OF DUTY OR
45 DIES FROM INJURIES SUFFERED IN THE LINE OF DUTY IS ENTITLED TO RECEIVE A

1 MONTHLY AMOUNT EQUAL TO THE DECEASED MEMBER'S AVERAGE MONTHLY BENEFIT
 2 COMPENSATION LESS ANY AMOUNT PAYABLE FOR AN ELIGIBLE CHILD UNDER THIS
 3 SECTION. A MEMBER WHO WAS ELIGIBLE FOR OR RECEIVING A TEMPORARY DISABILITY
 4 PENSION AT THE TIME OF THE MEMBER'S DEATH IS NOT DEEMED TO BE RETIRED FOR THE
 5 PURPOSES OF THIS SUBSECTION.

6 E. A SURVIVING SPOUSE SHALL FILE A WRITTEN APPLICATION WITH THE SYSTEM
 7 IN ORDER TO RECEIVE A SURVIVOR BENEFIT.

8 ~~C.~~ F. If at least one eligible child is surviving at the death of a
 9 member or retired member, but no surviving spouse's pension then becomes
 10 payable, a guardian's or conservator's pension shall be payable to the person
 11 who is serving, or who is deemed by the local board to be serving, as the
 12 legally appointed guardian or custodian of the eligible child. If an
 13 eligible child of a member or retired member is surviving at the member's or
 14 retired member's death, the eligible child is entitled to receive a child's
 15 pension payable to the person who is serving or who is deemed by the local
 16 board to be serving as the legally appointed guardian or custodian of the
 17 eligible child. A CHILD'S PENSION OR A GUARDIAN'S OR CONSERVATOR'S PENSION
 18 TERMINATES IF THE CHILD IS ADOPTED. IN THE CASE OF A DISABLED CHILD, THE
 19 CHILD'S PENSION OR THE GUARDIAN'S OR CONSERVATOR'S PENSION TERMINATES IF THE
 20 CHILD CEASES TO BE UNDER A DISABILITY OR CEASES TO BE A DEPENDENT OF THE
 21 SURVIVING SPOUSE OR GUARDIAN. The member may also direct by designation to
 22 the local board that the guardian or conservator pension or child's pension
 23 be paid to the trustee of a trust created for the benefit of the eligible
 24 child. A guardian's or conservator's pension shall also become payable if at
 25 least one eligible child is surviving when a surviving spouse's pension
 26 terminates. THE GUARDIAN OR CONSERVATOR SHALL FILE A WRITTEN APPLICATION
 27 WITH THE SYSTEM IN ORDER TO RECEIVE THE GUARDIAN'S OR CONSERVATOR'S PENSION
 28 AND CHILD'S PENSION.

29 ~~D.~~ G. The fund manager shall pay a guardian's or conservator's
 30 pension during the same period in which a pension is payable to at least one
 31 eligible child. The guardian, conservator or designated trustee is entitled
 32 to receive the same monthly amount as would have been payable to the
 33 decedent's surviving spouse had a surviving spouse's pension become payable
 34 upon the decedent's death.

35 ~~E.~~ H. Each eligible child is entitled to a monthly amount equal to
 36 one-tenth of the monthly amount of pension ~~which~~ THAT the deceased member or
 37 retired member would have received immediately prior to death. THE PENSION
 38 FOR A CHILD OF A DECEASED MEMBER SHALL BE CALCULATED IN THE SAME MANNER AS AN
 39 ACCIDENTAL DISABILITY IS CALCULATED PURSUANT TO SECTION 38-845. A deceased
 40 member shall be assumed to be retired for reasons of accidental disability
 41 immediately before the member's death. If there are three or more children
 42 eligible for a child's pension, a maximum of two shares of the child's
 43 pension shall be payable, the aggregate of such shares to be apportioned in
 44 equal measure to each eligible child.

1 ~~F.~~ I. If a member has accumulated contributions remaining in the
 2 system at the date of death of the last beneficiary, a lump sum refund of
 3 such accumulated contributions shall be payable to the person whom the member
 4 has designated as the member's refund beneficiary, or if the member's refund
 5 beneficiary is not then surviving, to the designated contingent refund
 6 beneficiary, or if the designated contingent refund beneficiary is not then
 7 surviving, to such person nearest of kin as selected by the local board. The
 8 amount of the lump sum refund shall be the remaining accumulated
 9 contributions. THE BENEFICIARY OR PERSON WHO IS SELECTED AS NEAREST OF KIN
 10 SHALL FILE A WRITTEN APPLICATION IN ORDER TO RECEIVE THE REFUND.

11 ~~G.~~ J. In calculating the right to and the amount of the surviving
 12 spouse's pension, the law in effect on the date of the death of the member or
 13 retired member controls, unless the law under which the member retired
 14 provides for a greater benefit amount for a surviving spouse.

15 Sec. 18. Section 38-846.01, Arizona Revised Statutes, is amended to
 16 read:

17 38-846.01. Deferred annuity

18 If any member who has at least ten years of credited service terminates
 19 ~~his~~ employment for reasons other than retirement or disability, ~~he~~ THE PERSON
 20 may elect to receive a deferred ~~retirement allowance~~ ANNUITY, except that if
 21 the ~~member~~ PERSON withdraws ~~all or part of his~~ THE PERSON'S accumulated
 22 contributions FROM THE SYSTEM, all ~~his~~ rights in and to a deferred ~~retirement~~
 23 ~~allowance shall be~~ ANNUITY ARE forfeited ~~by him and he ceases to be a~~
 24 ~~member~~. A deferred ~~retirement allowance shall be~~ ANNUITY IS a ~~life-time~~
 25 LIFETIME monthly ~~pension~~ PAYMENT THAT IS actuarially equivalent to the
 26 ~~member's~~ ANNUITANT'S accumulated contributions IN THE SYSTEM plus an equal
 27 amount paid by the employer and shall commence on application on or after the
 28 sixty-second birthday of the ~~member~~ ANNUITANT. THE DEFERRED ANNUITY IS NOT A
 29 RETIREMENT BENEFIT AND ANNUITANTS ARE NOT ENTITLED TO RECEIVE ANY AMOUNT
 30 PROVIDED BY SECTION 38-845, SUBSECTION F OR SECTION 38-846, 38-856 OR 38-857.

31 Sec. 19. Section 38-847, Arizona Revised Statutes, is amended to read:

32 38-847. Local boards

33 A. The administration of the system and responsibility for making the
 34 provisions of the system effective for each employer are vested in a local
 35 board. The department of public safety, the Arizona game and fish
 36 department, the department of emergency and military affairs, the university
 37 of Arizona, Arizona state university, northern Arizona university, each
 38 county sheriff's office, each county attorney's office, each county parks
 39 department, each municipal fire department, each eligible fire district, each
 40 community college district, each municipal police department, the department
 41 of law, the department of administration, the department of liquor licenses
 42 and control, the Arizona department of agriculture, the Arizona state parks
 43 board, each Indian reservation police agency and each Indian reservation fire
 44 fighting agency shall have a local board. A nonprofit corporation operating

1 pursuant to sections 28-8423 and 28-8424 shall have one board for all of its
2 members. Each local board shall be constituted as follows:

3 1. For political subdivisions or Indian tribes, the mayor or chief
4 elected official or a designee of the mayor or chief elected official
5 approved by the respective governing body as chairman, two members elected by
6 secret ballot by members employed by the appropriate employer and two
7 citizens, one of whom shall be the head of the merit system if it exists for
8 the group of members, appointed by the mayor or chief elected official and
9 with the approval of the governing body of the city or the governing body of
10 the employer. The appointed two citizens shall serve on both local boards in
11 a city or Indian tribes where both fire and police department employees are
12 members.

13 2. For state agencies and nonprofit corporations operating pursuant to
14 sections 28-8423 and 28-8424, two members elected by secret ballot by members
15 employed by the appropriate employer and three citizens appointed by the
16 governor. Each state agency local board shall elect a chairman.

17 3. For fire districts organized pursuant to section 48-804, the
18 secretary-treasurer as chairman, two members elected by secret ballot by
19 members employed by the fire district and two citizens appointed by the
20 secretary-treasurer, one of whom is a resident of the fire district and one
21 of whom has experience in personnel administration but who is not required to
22 be a resident of the fire district.

23 B. Upon the taking effect of this system for an employer, the
24 appointments and elections of board members shall take place with one
25 elective and appointive board member serving a term ending two years after
26 the effective date of participation for the employer and other local board
27 members serving a term ending four years after the effective date.
28 Thereafter, every second year, and as a vacancy occurs, an office shall be
29 filled for a term of four years in the same manner as previously provided.

30 C. Each member of a local board ~~shall~~, within ten days after the
31 member's appointment or election, **SHALL** take an oath of office that, so far
32 as it devolves upon the member, the member shall diligently and honestly
33 administer the affairs of the local board and that the member shall not
34 knowingly violate or willingly permit to be violated any of the provisions of
35 law applicable to the system.

36 D. Except as limited by subsection E of this section, a local board
37 shall have such powers as may be necessary to discharge the following duties:

38 1. To decide all questions of eligibility and service credits, and
39 determine the amount, manner and time of payment of any benefits under the
40 system.

41 2. To prescribe procedures to be followed by claimants in filing
42 applications for benefits.

43 3. To make a determination as to the right of any claimant to a
44 benefit and to afford any claimant or the fund manager, or both, a right to a
45 rehearing on the original determination.

1 4. To request and receive from the employers and from members such
2 information as is necessary for the proper administration of the system and
3 action on claims for benefits and to forward such information to the fund
4 manager.

5 5. To distribute, in such manner as the local board determines to be
6 appropriate, information explaining the system received from the fund
7 manager.

8 6. To furnish the employer, the fund manager, and the legislature,
9 upon request, with such annual reports with respect to the administration of
10 the system as are reasonable and appropriate.

11 7. To receive and review the actuarial valuation of the system for its
12 group of members.

13 8. To receive and review reports of the financial condition and of the
14 receipts and disbursements of the fund from the fund manager.

15 9. To appoint medical boards as provided in section 38-859.

16 10. To sue and be sued to effectuate the duties and responsibilities
17 set forth in this article.

18 E. A local board shall have no power to add to, subtract from, modify
19 or waive any of the terms of the system, change or add to any benefits
20 provided by the system or waive or fail to apply any requirement of
21 eligibility for membership or benefits under the system.

22 F. A local board shall, ~~from time to time, establish and~~ adopt ~~such~~
23 ~~rules, as it deems necessary or desirable~~ **POLICIES AND PROCEDURES** for its
24 administration, **INCLUDING RULES, POLICIES AND PROCEDURES TO GOVERN THE**
25 **CONDUCT OF HEARINGS AND THE AWARD OF RETIREMENT AND DISABILITY BENEFITS.** All
26 rules, **POLICIES, PROCEDURES** and decisions of a **LOCAL** board shall be uniformly
27 and consistently applied to all members in similar circumstances.

28 G. Any action by a majority vote of the members of a local board ~~which~~
29 **THAT** is not inconsistent with the provisions of the system shall be final,
30 conclusive and binding upon all persons affected by it unless a timely
31 application for a rehearing or appeal is filed as provided in this article.

32 H. A claimant or the fund manager may apply for a rehearing before the
33 local board within the time period prescribed in this subsection. An
34 application for a rehearing shall be filed in writing with a member of the
35 local board or its secretary within sixty days after:

36 1. The applicant-claimant receives notification of the local board's
37 original action by certified mail, by attending the meeting at which the
38 action is taken or by receiving benefits from the system pursuant to the
39 local board's original action, whichever occurs first.

40 2. The applicant-fund manager receives notification of the local
41 board's original action by certified mail or by receipt of written directions
42 from the local board pursuant to its original action, whichever occurs first.

43 I. A hearing before a local board on a matter remanded from the
44 superior court is not subject to a rehearing before the local board.

J. Decisions of local boards are subject to judicial review pursuant to title 12, chapter 7, article 6.

K. When making a ruling, determination or calculation, the local board shall be entitled to rely upon information furnished by the employer, the fund manager, independent legal counsel, ~~or~~ or the actuary for the system.

L. Each member of a local board is entitled to one vote. A majority of the appointed and elected members is necessary for a decision by the members of a local board at any meeting of the local board.

M. The local board shall adopt such bylaws as it deems desirable. The local board shall elect a secretary who may, but need not, be a member of the local board. The secretary of the local board shall keep a record and prepare minutes of all meetings, forward the minutes to the fund manager within forty-five days after each meeting and forward all necessary communications to the fund manager.

N. **THE EMPLOYER SHALL PAY** the fees of the medical board and of local legal counsel and all other expenses of the local board necessary for the administration of the system, ~~shall be paid by the employer~~ **INCLUDING ANY LEGAL FEES INCURRED IN CONNECTION WITH APPEALS OF THE LOCAL BOARD'S DECISIONS**, at such rates and in such amounts as the local board shall approve.

O. The local board shall issue directions to the fund manager concerning all benefits ~~which~~ **THAT** are to be paid from the employer's account pursuant to the provisions of the fund. The local board shall keep on file, in such manner as it may deem convenient or proper, all reports from the fund manager and the actuary.

P. The local board and the individual members of the local board shall be indemnified from the assets of the employer's account in the fund against any and all liabilities arising by reason of any act, or failure to act, made in good faith pursuant to the provisions of the system, including expenses reasonably incurred in the defense of any claim relating to the act or failure to act.

Sec. 20. Section 38-848, Arizona Revised Statutes, is amended to read:
38-848. Fund manager

A. The fund manager shall consist of five members and shall have the rights, powers and duties that are set forth in this section. The term of office of members shall be three years to expire on the third Monday in January of the appropriate year. Members are eligible to receive compensation in an amount of fifty dollars a day, but not to exceed one thousand dollars in any one fiscal year, and are eligible for reimbursement of expenses pursuant to chapter 4, article 2 of this title. The fund manager consists of the following members appointed by the governor pursuant to section 38-211:

1. One elected member from a local board to represent the employees.

1 2. One member to represent this state as an employer of public safety
2 personnel. This member shall have the qualifications prescribed in
3 subsection R of this section.

4 3. One member to represent the cities as employers of public safety
5 personnel.

6 4. An elected county or state official or a judge of the superior
7 court, court of appeals or supreme court.

8 5. One public member. This member shall have the qualifications
9 prescribed in subsection R of this section.

10 B. All monies in the fund shall be deposited and held in a public
11 safety personnel retirement system depository. Monies in the fund shall be
12 disbursed from the depository separate and apart from all monies or funds of
13 the state and the agencies, instrumentalities and subdivisions thereof. The
14 monies shall be secured by the depository in which they are deposited and
15 held to the same extent and in the same manner as required by the general
16 depository law of the state. The fund is subject to the sole management of
17 the fund manager for the purpose of this article, EXCEPT THAT THE FUND
18 MANAGER MAY DELEGATE MANAGEMENT OF NO MORE THAN FIFTY PER CENT OF THE FUND TO
19 ONE OR MORE QUALIFIED OUTSIDE INVESTMENT MANAGERS IF SUCH A DELEGATION
20 APPEARS TO BE APPROPRIATE AND PRUDENT. IF SUCH A DELEGATION OCCURS, THE FUND
21 MANAGER SHALL EXERCISE SUPERVISION OVER THE OUTSIDE INVESTMENT MANAGER'S
22 CONDUCT AND PERFORMANCE. AN OUTSIDE INVESTMENT MANAGER IS QUALIFIED IF THE
23 MANAGER HAS THE FOLLOWING MINIMUM EXPERIENCE:

24 1. FOR ALL MANAGERS, OTHER THAN THOSE DESIGNATED TO MANAGE OR DEVELOP
25 REAL ESTATE OR IMPROVEMENTS ON REAL ESTATE, VENTURE CAPITAL OR PRIVATE
26 EQUITY, A MINIMUM OF THREE YEARS' EXPERIENCE AT HANDLING INSTITUTIONAL
27 INVESTMENTS OF AT LEAST TWO HUNDRED FIFTY MILLION DOLLARS.

28 2. FOR ALL MANAGERS DESIGNATED TO MANAGE OR DEVELOP REAL ESTATE OR
29 IMPROVEMENTS ON REAL ESTATE, VENTURE CAPITAL OR PRIVATE EQUITY,
30 DEMONSTRATION, TO THE FUND MANAGER'S SATISFACTION, THAT THE MANAGERS HAVE
31 SUFFICIENT JUDGMENT, EXPERIENCE, COMPETENCY AND CAPABILITY TO ACHIEVE
32 SUPERIOR RETURNS ON THE ASSETS PLACED UNDER THEIR MANAGEMENT.

33 C. All contributions under this system shall be forwarded to the fund
34 manager OR QUALIFIED OUTSIDE INVESTMENT MANAGERS WHO ARE RETAINED BY THE FUND
35 MANGER and shall be held, invested and reinvested by the fund manager OR
36 OUTSIDE INVESTMENT MANAGERS. All property and funds of the fund, including
37 income from investments and from all other sources, shall be retained for the
38 exclusive benefit of members, as provided in the system, and shall be used to
39 pay benefits to members or their beneficiaries or to pay expenses of
40 operation and administration of the system and fund.

41 D. The fund manager shall have the full power in its sole discretion
42 to invest and reinvest, alter and change the monies accumulated under the
43 system. IN ADDITION TO ITS POWER TO DELEGATE INVESTMENT AUTHORITY TO
44 QUALIFIED OUTSIDE INVESTMENT MANAGERS, the fund manager may delegate the
45 authority the fund manager deems necessary and prudent to the administrator,

1 employed by the fund manager pursuant to subsection K, paragraph 6 of this
 2 section, and any assistant administrators to invest the monies of the system
 3 if the administrator and any assistant administrators follow the investment
 4 policies that are promulgated by the fund manager. The fund manager may
 5 commingle securities and monies of the fund subject to the crediting of
 6 receipts and earnings and charging of payments to the account of the
 7 appropriate employer. In making every investment, the fund manager **AND ITS**
 8 **AUTHORIZED INVESTMENT MANAGERS** shall exercise the judgment and care under the
 9 circumstances then prevailing ~~which~~ **THAT** persons of ordinary prudence,
 10 discretion and intelligence exercise in the management of their own affairs,
 11 not in regard to speculation but in regard to the permanent disposition of
 12 their funds, considering the probable income from their funds as well as the
 13 probable safety of their capital, provided:

14 1. That not more than seventy per cent of the pension fund shall be
 15 invested at any given time in corporate stocks, based on cost value of such
 16 stocks irrespective of capital appreciation.

17 2. That no more than five per cent of the pension fund shall be
 18 invested in securities issued by any one institution, agency or corporation,
 19 other than securities issued as direct obligations of and fully guaranteed by
 20 the United States government.

21 3. That not more than five per cent of the voting stock of any one
 22 **PUBLICLY TRADED** corporation shall be owned.

23 4. That corporate stocks and exchange traded funds eligible for
 24 purchase shall be restricted to stocks and exchange traded funds that, except
 25 for bank stocks, insurance stocks and membership interests in limited
 26 liability companies, are either:

27 (a) Listed or approved on issuance for listing on an exchange
 28 registered under the securities exchange act of 1934, as amended (15 United
 29 States Code sections 78a through 78l).

30 (b) Designated or approved on notice of issuance for designation on
 31 the national market system of a national securities association registered
 32 under the securities exchange act of 1934, as amended (15 United States Code
 33 sections 78a through 78l).

34 (c) Listed or approved on issuance for listing on an exchange
 35 registered under the laws of this state or any other state.

36 (d) Listed or approved on issuance for listing on an exchange of a
 37 foreign country with which the United States is maintaining diplomatic
 38 relations at the time of purchase, ~~except that no more than ten per cent of~~
 39 ~~the pension fund shall be invested in foreign equity securities on these~~
 40 ~~exchanges, based on the cost value of the stocks irrespective of capital~~
 41 ~~appreciation.~~

42 (e) An exchange traded fund that is recommended by the chief
 43 investment officer of the system, that is registered under the investment
 44 company act of 1940 (15 United States Code section 80a-1 **THROUGH 80a-64**) and

1 that is both traded on a public exchange and based on a publicly recognized
2 index.

3 E. Notwithstanding any other law, the fund manager AND ITS AUTHORIZED
4 INVESTMENT MANAGERS shall not be required to invest in any type of investment
5 that is dictated or required by any entity of the federal government and that
6 is intended to fund economic development projects, public works or social
7 programs, but may consider such economically targeted investments pursuant to
8 ~~its~~ THEIR fiduciary responsibility. The fund manager AND ITS AUTHORIZED
9 INVESTMENT MANAGERS, on behalf of the system, may invest in, lend monies to
10 or guarantee the repayment of monies by a limited liability company, limited
11 partnership, joint venture, partnership, limited liability partnership or
12 trust in which the system has a financial interest, whether the entity is
13 closely held or publicly traded and that, in turn, may be engaged in any
14 lawful activity, including the ownership, development, management,
15 improvement or operation of real property and any improvements or businesses
16 on real property or the lending of monies.

17 F. Conference call meetings of the fund manager of the public safety
18 personnel retirement system ~~which~~ THAT are held for investment purposes only
19 are not subject to chapter 3, article 3.1 of this title, except that the fund
20 manager shall maintain minutes of these conference call meetings and make
21 them available for public inspection within twenty-four hours after the
22 meeting. The fund manager shall review the minutes of each conference call
23 meeting and shall ratify all legal actions taken during each conference call
24 meeting at the next scheduled meeting of the fund manager.

25 G. The fund manager shall not be held liable for the exercise of more
26 than ordinary care and prudence in the selection of investments and
27 performance of its duties under the system and shall not be limited to
28 so-called "legal investments for trustees", but all funds of the system shall
29 be invested subject to all of the conditions, limitations and restrictions
30 imposed by law.

31 H. Except as provided in subsection D of this section, the fund
32 manager may:

33 1. Invest and reinvest the principal and income of the pension fund
34 without distinction between principal and income.

35 2. Sell, exchange, convey, transfer or otherwise dispose of any
36 investments of the fund held in the name of the system by private contract or
37 at public auction.

38 3. Also:

39 (a) Vote upon any stocks, bonds or other securities.

40 (b) Give general or special proxies or powers of attorney with or
41 without power of substitution.

42 (c) Exercise any conversion privileges, subscription rights or other
43 options and make any payments incidental to the exercise of the conversion
44 privileges, subscription rights or other options.

1 (d) Consent to or otherwise participate in corporate reorganizations
2 or other changes affecting corporate securities, delegate discretionary
3 powers and pay any assessments or charges in connection therewith.

4 (e) Generally exercise any of the powers of an owner with respect to
5 stocks, bonds, securities or other investments held in the fund.

6 4. Make, execute, acknowledge and deliver any other instruments that
7 may be necessary or appropriate to carry out the powers granted in this
8 section.

9 5. Register any investment held in the fund in the name of the fund or
10 in the name of a nominee.

11 6. At the expense of the system, enter into an agreement with any bank
12 or banks for the safekeeping and handling of securities and other investments
13 coming into the possession of the fund manager. The agreement shall be
14 entered into under terms and conditions that secure the proper safeguarding,
15 inventory, withdrawal and handling of the securities and other
16 investments. No access to and no deposit or withdrawal of the securities
17 from any place of deposit selected by the fund manager shall be permitted or
18 made except as the terms of the agreement may provide.

19 7. Appear before local boards and the courts of this state and
20 political subdivisions of this state through counsel or appointed
21 representative to protect the fund. The fund manager is not responsible for
22 the actions or omissions of the local boards under this system but may seek
23 review or rehearing of actions or omissions of local boards. The fund
24 manager does not have a duty to review actions of the local boards but may do
25 so in its discretion in order to protect the fund.

26 8. Empower the fund administrator to take actions on behalf of the
27 fund manager that are necessary for the protection and administration of the
28 fund in accordance with the guidelines of the fund manager.

29 9. TO PROTECT THE FUND FROM INTERNAL THEFT AND NOTWITHSTANDING ANY
30 OTHER LAW, CONDUCT BACKGROUND CHECKS ON CURRENT AND PROSPECTIVE EMPLOYEES OF
31 THE SYSTEM AND OBTAIN SOCIAL SECURITY NUMBERS FOR THIS PURPOSE.

32 ~~9.~~ 10. Do all acts, whether or not expressly authorized that may be
33 deemed necessary or proper for the protection of the investments held in the
34 fund.

35 I. Investment expenses and operation and administrative expenses of
36 the fund manager shall be accounted for separately and allocated against
37 investment income.

38 J. The fund manager, as soon as possible within a period of six months
39 following the close of any fiscal year, shall transmit to the governor and
40 the legislature ~~an annual statement~~ A COMPREHENSIVE ANNUAL FINANCIAL REPORT
41 on the operation of the system containing, among other things:

42 1. A balance sheet.

43 2. A statement of income and expenditures for the year.

44 3. A report on an actuarial valuation of its assets and liabilities.

~~4. A detailed statement of the investments acquired and disposed of during the year.~~

~~5. A list of investments owned.~~

~~6.~~ 4. The total rate of return, yield on cost, and per cent of cost to market value of the fund.

~~7.~~ 5. Any other statistical and financial data that may be necessary for the proper understanding of the financial condition of the system and the results of its operations. A synopsis of the annual report shall be published for the information of members of the system.

K. The fund manager shall:

1. Maintain the accounts of the system and issue statements to each employer annually and to each member who may request it.

2. Report the results of the actuarial valuations to the local boards and employers.

3. Contract on a fee basis with an independent investment counsel to advise the fund manager in the investment management of the fund and with an independent auditing firm to audit the fund manager's accounting.

4. Permit the auditor general to make an annual audit and the results shall be transmitted to the governor and the legislature.

5. Contract on a fee basis with an actuary who shall make actuarial valuations of the system, be the technical adviser of the fund manager on matters regarding the operation of the funds created by the provisions of the system and perform other duties required in connection therewith. The actuary must be a member of a nationally recognized association or society of actuaries.

6. Employ, as administrator, a person, state department or other body to serve at the pleasure of the fund manager.

7. Establish procedures and guidelines for contracts with actuaries, auditors, investment counsel and legal counsel and for safeguarding of securities.

8. IF DEEMED NECESSARY OR APPROPRIATE, CONTRACT ON A FEE BASIS WITH ONE OR MORE QUALIFIED OUTSIDE INVESTMENT MANAGERS TO MANAGE ONE OR MORE OF THE FUND'S INVESTMENTS, ASSETS OR INVESTMENT PORTFOLIOS, SUBJECT TO THE FUND MANAGER'S EXERCISE OF SUPERVISION.

L. The administrator, under the direction of the fund manager, shall:

1. Administer this article.

2. Invest the funds of the system as the fund manager deems necessary and prudent as provided in subsections D and H of this section and subject to the investment policies and fund objectives promulgated by the fund manager.

3. Establish and maintain an adequate system of accounts and records for the system which shall be integrated with the accounts, records and procedures of the employers so that the system operates most effectively and at minimum expense and that duplication of records and accounts is avoided.

4. In accordance with the fund manager's governance policy and personnel rules and procedures and the budget adopted by the fund manager,

1 hire such employees and services the administrator deems necessary and
2 prescribe their duties, including the hiring of one or more assistant
3 administrators to manage the system's operations, investments and legal
4 affairs.

5 5. Be responsible for income, the collection of the income and the
6 accuracy of all expenditures.

7 6. Recommend to the fund manager annual contracts for the system's
8 actuary, auditor, investment counsel, legal counsel, **QUALIFIED OUTSIDE**
9 **INVESTMENT MANAGERS, IF ANY,** and safeguarding of securities.

10 7. Perform additional duties and powers prescribed by the fund manager
11 and delegated to the administrator.

12 M. The system is an independent trust fund and the fund manager, the
13 administrator, the assistant administrators and all persons employed by them
14 are not under the jurisdiction of the department of administration or any
15 other agency, department or instrumentality of this state or subject to
16 section 38-611 or title 41, chapter 4 or 6. The salaries of the
17 administrator, assistant administrators and other employees of the fund
18 manager are the sole determination of the fund manager. Contracts for goods
19 and services approved by the fund manager are not subject to title 41,
20 chapter 23. As an independent trust fund whose assets are separate and apart
21 from all other funds of this state, the system and the fund manager are not
22 subject to the restrictions prescribed in section 35-154 or article ix,
23 sections 5 and 8, Constitution of Arizona.

24 N. The attorney general or an attorney approved by the attorney
25 general and paid by the fund shall be the attorney for the fund manager and
26 shall represent the fund manager in any legal proceeding or forum that the
27 fund manager deems appropriate. **THE ATTORNEY GENERAL SHALL OBTAIN THE**
28 **WRITTEN CONSENT OF THE FUND MANAGER IN ORDER TO SETTLE A CLAIM ON BEHALF OF**
29 **THE FUND MANAGER, THE SYSTEM OR ANY PENSION PLAN ADMINISTERED BY THE FUND**
30 **MANAGER. WITHOUT THIS CONSENT, THE FUND MANAGER AND THE PLANS IT ADMINISTERS**
31 **ARE NOT BOUND BY ANY SETTLEMENT PURPORTED TO BE NEGOTIATED ON THEIR BEHALF BY**
32 **THE ATTORNEY GENERAL.** The fund manager, administrator, assistant
33 administrators and employees of the fund manager are not personally liable
34 for any acts done in their official capacity in good faith reliance on the
35 written opinions of the fund manager's attorney.

36 O. At least once in each five-year period after the effective date,
37 the actuary shall make an actuarial investigation into the mortality, service
38 and compensation experience of the members and beneficiaries of the system
39 and shall make a special valuation of the assets and liabilities of the funds
40 of the system. Taking into account the results of the investigation and
41 special valuation, the fund manager shall adopt for the system such
42 mortality, service and other tables deemed necessary.

43 P. On the basis of the tables the fund manager adopts, the actuary
44 shall make a valuation of the assets and liabilities of the funds of the
45 system not less frequently than every year. By November 1 of each year the

1 fund manager shall provide a preliminary report and by December 15 of each
2 year provide a final report to the governor, the speaker of the house of
3 representatives and the president of the senate on the contribution rate for
4 the ensuing fiscal year.

5 Q. Neither the fund manager nor any member, ~~or~~ employee OR AUTHORIZED
6 INVESTMENT MANAGER of the fund manager shall directly or indirectly, for
7 himself or as an agent, in any manner use the monies or deposits of the fund
8 except to make current and necessary payments, nor shall the fund manager or
9 any member, ~~or~~ employee OR AUTHORIZED INVESTMENT MANAGER become an endorser
10 or surety or in any manner an obligor for monies loaned by or borrowed from
11 the fund.

12 R. The members of the fund manager who are appointed pursuant to
13 subsection A, paragraphs 2 and 5 of this section shall have at least ten
14 years' substantial experience as any one or a combination of the following:

15 1. A portfolio manager acting in a fiduciary capacity.

16 2. A securities analyst.

17 3. An employee or principal of a trust institution, investment
18 organization or endowment fund acting either in a management or an investment
19 related capacity.

20 4. A chartered financial analyst in good standing as determined by the
21 association for investment management and research.

22 5. A professor at the university level teaching economics or
23 investment related subjects.

24 6. An economist.

25 7. Any other professional engaged in the field of public or private
26 finances.

27 S. Financial or commercial information that is provided to the fund
28 manager, employees of the fund manager, AUTHORIZED INVESTMENT MANAGERS OR
29 AGENTS OF THE FUND MANAGER and attorneys of the fund manager in connection
30 with investments in which the fund manager has invested or investments the
31 fund manager has considered for investment is confidential, proprietary and
32 not a public record if the information is information that would customarily
33 not be released to the public by the person or entity from whom the
34 information was obtained.

35 Sec. 21. Section 38-848.01, Arizona Revised Statutes, is amended to
36 read:

37 38-848.01. Qualified governmental excess benefit arrangement

38 A. The fund manager may establish a qualified governmental excess
39 benefit arrangement for the sole purpose of enabling the fund manager to
40 continue to apply the same formula for determining benefits payable to all
41 employees covered by the system whose benefits under the system are limited
42 by section 415 of the internal revenue code.

43 B. The fund manager shall administer the qualified governmental excess
44 benefit arrangement. The fund manager has full discretionary fiduciary
45 authority to determine all questions arising in connection with the

1 arrangement, including its interpretation and any factual questions arising
2 under the arrangement.

3 C. All members and retired members of the system are eligible to
4 participate in the qualified governmental excess benefit arrangement if their
5 benefits under the system would exceed the limitations imposed by section 415
6 of the internal revenue code.

7 D. On or after the effective date of the qualified governmental excess
8 benefit arrangement, the employer shall pay to each eligible member of the
9 system who retires on or after the effective date and to each retired member
10 who retired before the effective date and that member's beneficiary, if
11 required, a supplemental pension benefit equal to the amount by which the
12 benefit that would have been payable under the system, without regard to any
13 provisions in the system incorporating the limitation on benefits imposed by
14 section 415 of the internal revenue code, exceeds the benefit actually
15 payable taking into account the limitation imposed on the system by section
16 415 of the internal revenue code. The fund manager shall compute and pay the
17 supplemental pension benefits under the same terms and conditions and to the
18 same person as the benefits payable to or on account of a retired member
19 under the system.

20 E. The employer shall not fund benefits payable under the qualified
21 governmental excess benefit arrangement. The employer shall pay benefits
22 payable under the qualified governmental excess benefit arrangement out of
23 the general assets of the employer. For administrative purposes, the
24 employer may establish a grantor trust for the benefit of eligible members.
25 The employer shall be treated as grantor of the trust for purposes of section
26 677 of the internal revenue code. The rights of any person to receive
27 benefits under the qualified governmental excess benefit arrangement are
28 limited to those of a general creditor of the employer.

29 F. The terms and conditions contained in the system, other than those
30 relating to the benefit limitation imposed by section 415 of the internal
31 revenue code, apply, unless the terms and conditions are inconsistent with
32 the purpose of the qualified governmental excess benefit arrangement.

33 ~~G. For the purposes of this section:~~

34 ~~1. "Internal revenue code" has the same meaning prescribed in section~~
35 ~~42-1001.~~

36 ~~2. "Qualified governmental excess benefit arrangement" means a portion~~
37 ~~of the system if:~~

38 ~~(a) The portion is maintained solely to provide to members of the~~
39 ~~system that part of a member's annual benefit that is otherwise payable under~~
40 ~~the terms of the system and that exceeds the limitations imposed by section~~
41 ~~415 of the internal revenue code.~~

42 ~~(b) Under that portion, a direct or indirect election to defer~~
43 ~~compensation is not provided at any time to the member.~~

~~(c) Excess benefits are not paid from a trust that is a part of the system unless the trust is maintained solely for the purpose of providing excess benefits.~~

Sec. 22. Section 38-848.02, Arizona Revised Statutes, is amended to read:

38-848.02. Reports: global security risk

A. The fund manager shall submit a report on or before January 10 and July 10 of each year to the senate finance committee and the house of representatives government and retirement committee, or their successor committees, on the economic impact of global security risks of investments of the fund monies managed by the fund manager, including:

1. A list of those companies that are held in portfolio by the fund manager, if the fund manager can make such a determination from public information, and that have or that are reasonably known by the fund manager to have business activities in or with countries identified as those countries currently designated pursuant to section 6(j) of the export administration act (50 UNITED STATES CODE APP. SECTION 2405) as supporting international terrorism. FOR THE PURPOSES OF THIS PARAGRAPH, COMPANIES DO NOT INCLUDE CORPORATIONS WHOSE SHARES ARE HELD BY MUTUAL FUNDS, EXCHANGE TRADED FUNDS OR ANY POOLED INVESTMENTS IN WHICH THE FUND MANAGER OWNS SHARES OR INTERESTS.

2. A summary description of the business activities of those companies identified in paragraph 1 if the fund manager can make such a determination.

3. The total amount invested in each company identified in paragraph 1 as of ninety days before the report is submitted.

4. An assessment by the fund manager based on the prudent investor rule of the level of the global security risk attributable to the investments.

B. If a report fails to provide any of the required information, the fund manager shall explain the reasons why the information was not provided.

Sec. 23. Section 38-849, Arizona Revised Statutes, is amended to read:

38-849. Limitations on receiving pension; violation; classification; reemployment after severance; reinstatement of service credits; reemployment of retired member

A. If a member is convicted of, or discharged because of, theft, embezzlement, fraud or misappropriation of an employer's property or property under the control of the employer, the member shall be subject to restitution and fines imposed by a court of competent jurisdiction. The court may order the restitution or fines to be paid from any payments otherwise payable to the member from the retirement system.

B. A person who knowingly makes any false statement or who falsifies or permits to be falsified any record of the system with an intent to defraud the system is guilty of a class 6 felony. If any change or error in the records results in any member or beneficiary receiving from the system more

1 or less than the member or beneficiary would have been entitled to receive
2 had the records been correct, the local board shall correct such error, and
3 as far as practicable shall adjust the payments in such manner that the
4 actuarial equivalent of the benefit to which such member or beneficiary was
5 correctly entitled shall be paid. If a member is convicted of a crime
6 specified in this subsection the member shall be entitled to receive a lump
7 sum payment of the member's accumulated contributions but forfeits any future
8 compensation and benefits ~~which~~ THAT would otherwise accrue to the member or
9 the member's estate under this article.

10 C. If a member who received a severance refund upon termination of
11 employment, as provided in section 38-846.02, is subsequently reemployed by
12 an employer, the member's prior service credits shall be cancelled and
13 service shall be credited only from the date the member's most recent
14 reemployment period commenced. However, if the former member's reemployment
15 with the same employer occurred within two years after the former member's
16 termination date, and, within ninety days after reemployment the former
17 member signs a written election consenting to reimburse the fund within one
18 year, the former member shall be required to redeposit the amount withdrawn
19 at the time of the former member's separation from service, with interest
20 thereon at the rate of nine per cent for each year compounded each year from
21 the date of withdrawal to the date of repayment. Upon satisfaction of this
22 obligation the member's prior service credits shall be reinstated.

23 D. If a retired member is reemployed by an employer, no contributions
24 shall be made on the retired member's account, nor any service credited,
25 during the period of such reemployment. Notwithstanding this subsection, if
26 a retired member subsequently becomes employed in the same position by the
27 employer from which the member retired, the system shall not make pension
28 payments to the retired member during the period of reemployment. **WITHIN TEN**
29 **DAYS AFTER A RETIRED MEMBER IS REEMPLOYED BY THE EMPLOYER FROM WHICH THE**
30 **MEMBER RETIRED, THE EMPLOYER SHALL ADVISE THE FUND MANAGER IN WRITING AS TO**
31 **WHETHER THE RETIRED MEMBER HAS BEEN REEMPLOYED IN THE SAME POSITION FROM**
32 **WHICH THE MEMBER RETIRED.** On subsequent termination of employment by the
33 retired member, the retired member is entitled to receive a pension based on
34 the member's service and compensation before the date of the member's
35 reemployment. If a member who retired under disability is reemployed by an
36 employer as an employee, that member shall be treated as if the member had
37 been on an uncompensated leave of absence during the period of the member's
38 disability retirement and shall be a contributing member of the system. ~~For~~
39 ~~the purposes of this subsection, "same position" means the member is in a~~
40 ~~position where the member performs duties and exercises authority that are~~
41 ~~the same duties that were performed and the same authority that was exercised~~
42 ~~by the member before the member's retirement.~~

43 E. A person who defrauds the system or who takes, converts, steals or
44 embezzles monies owned by or from the system and who fails or refuses to
45 return the monies to the system on the fund manager's written request is

1 subject to civil suit by the system in the superior court ~~of~~ IN Maricopa
2 county. On entry of an order finding the person has defrauded the system or
3 taken, converted, stolen or embezzled monies owned by or from the system, the
4 court shall enter an order against that person and for the system awarding
5 the system all of its costs and expenses of any kind, including attorney
6 fees, that were necessary to successfully prosecute the action. The court
7 shall also grant the system a judicial lien on all of the nonexempt property
8 of the person against whom judgment is entered pursuant to this subsection in
9 an amount equal to all amounts awarded to the system, plus interest at the
10 rate prescribed by section 44-1201, subsection A, until all amounts owed are
11 paid to the system.

12 F. Notwithstanding any other provision of this article, the fund
13 manager may offset against any benefits otherwise payable by the system to an
14 active or retired member or survivor any court ordered amounts awarded to the
15 fund manager and system and assessed against the member or survivor.

16 Sec. 24. Section 38-851, Arizona Revised Statutes, is amended to read:

17 38-851. Participation of new employers

18 A. This state, any municipality, county or other political subdivision
19 of the state, any Indian tribe or any public or quasi-public organization
20 created wholly or partly by, or deriving its powers from, the legislature,
21 may request to become a participating employer in the system on behalf of a
22 designated eligible employee group. Such a request shall be made by the
23 state departmental director or after a proper resolution has been adopted by
24 the governing body of the political subdivision, Indian tribe or public
25 organization, and after such resolution has been approved by any other party
26 or officer required by law to approve the resolution. A certified copy of
27 such resolution shall be filed with the fund manager. This state or the
28 political subdivision, Indian tribe or public organization shall be
29 considered as a participating employer upon proper execution of a joinder
30 agreement in which the employer unconditionally accepts the provisions of the
31 system and binds the employer's designated eligible employees to those
32 provisions. All members of an eligible group shall be designated for
33 membership, unless written consent to the contrary is obtained from the fund
34 manager. A member shall be qualified for participation in order to obtain
35 written consent to the contrary from the fund manager.

36 B. The effective date of participation in the system by this state or
37 a political subdivision, Indian tribe or public organization shall be the
38 July 1 next succeeding the approval of its participation, unless the fund
39 manager consents to another date, as shall be specifically stipulated in the
40 joinder agreement.

41 C. The new employer shall designate the departments, groups or other
42 classifications of public safety employees ~~which~~ THAT shall be eligible to
43 participate in the system and shall agree to make contributions each year
44 ~~which~~ THAT shall be sufficient to meet both the normal cost on a level cost
45 method attributable to inclusion of its employees and the PAST SERVICE COST

1 OF ITS EMPLOYEES, TOGETHER WITH ANY prescribed interest on the past service
2 cost for its employees.

3 D. This state or any political subdivision, Indian tribe or public
4 organization ~~which~~ THAT is contemplating participation in the system shall
5 request a preliminary actuarial survey to determine the estimated cost of
6 participation, the benefits to be derived and such other information as may
7 be deemed appropriate. The cost of such a survey shall be paid by this state
8 or the political subdivision, Indian tribe or public organization requesting
9 it.

10 E. As a condition to participation in the system an Indian tribe
11 employer, by resolution of the governing body, shall:

12 1. Agree that all disputes involving interpretation of state statutes
13 involving the system, and any amendments to such statutes, will be resolved
14 through the court system of this state.

15 2. Agree to be bound by state statutes and laws ~~which~~ THAT regulate
16 and interpret the provisions of the system, including eligibility to
17 membership in the system, service credits and the rights of any claimant to
18 benefits and the amount of such benefits.

19 3. Agree to meet any requirement ~~which~~ THAT the fund manager may
20 prescribe to ensure timely payment of member and employer contributions and
21 any other amounts due from the employer to the system.

22 4. Include in the joinder agreement any other provision deemed
23 necessary by the fund manager for the administration or enforcement of the
24 agreement.

25 F. Assets under any existing public employee defined benefit
26 retirement program, except a military retirement program, necessary to equal
27 the actuarial present value of projected benefits to the extent funded on a
28 market value basis as of the most recent actuarial valuation attributable to
29 the employer's designated employee group, calculated using the actuarial
30 methods and assumptions adopted by the existing public employee retirement
31 program, shall be transferred from such program to this fund no later than
32 sixty days after the employer's effective date. That portion of the
33 transferred assets ~~which~~ THAT is attributable to employee contributions,
34 including interest credits thereon, shall be properly allocated to each
35 affected employee of the employer and credited to the employee's initial
36 accumulated contributions, in accordance with a schedule furnished by the
37 employer to the fund manager.

38 Sec. 25. Section 38-853.01, Arizona Revised Statutes, is amended to
39 read:

40 38-853.01. Redemption of prior service

41 A. Each present active member of the system who had previous service
42 in this state as an employee with an employer now covered by the system or
43 had previous service with an agency of the United States government, a state
44 of the United States or a political subdivision of a state of the United
45 States as a full-time paid firefighter or full-time paid certified peace

1 officer may elect to redeem any part of the prior service by paying into the
 2 system any amounts required under subsection B if the prior service is not on
 3 account with any other retirement system.

4 B. Any present active member who elects to redeem any part of the
 5 prior service for which the employee is deemed eligible by the fund manager
 6 under ~~this section~~ SUBSECTION A shall pay into the system the amounts
 7 previously withdrawn by the member, if any, as a refund of the member's
 8 accumulated contributions plus accumulated interest as determined by the fund
 9 manager and the additional amount, if any, computed by the system's actuary
 10 ~~which~~ THAT is necessary to equal the increase in the actuarial present value
 11 of projected benefits resulting from the redemption calculated using the
 12 actuarial methods and assumptions prescribed by the system's actuary.

13 C. ANY PRESENT ACTIVE MEMBER WITH AT LEAST FIVE YEARS OF CREDITED
 14 SERVICE ON ACCOUNT WITH THE SYSTEM MAY PURCHASE A MAXIMUM OF FIVE YEARS OF
 15 CREDITED SERVICE CORRESPONDING TO EITHER:

16 1. PERIODS OF TIME DURING WHICH THE MEMBER WAS ON LEAVE WITHOUT PAY
 17 WITH A PARTICIPATING EMPLOYER.

18 2. PERIODS OF NONQUALIFIED SERVICE AS DEFINED BY INTERNAL REVENUE CODE
 19 SECTION 415(n)(3)(C) IF THE PERIODS OF SERVICE ARE NOT ON ACCOUNT WITH ANY
 20 OTHER RETIREMENT SYSTEM.

21 D. ANY MEMBER WHO ELECTS TO PURCHASE CREDITED SERVICE UNDER SUBSECTION
 22 C SHALL PAY INTO THE SYSTEM THE AMOUNT THAT IS COMPUTED BY THE SYSTEM'S
 23 ACTUARY AND THAT IS NECESSARY TO EQUAL THE INCREASE IN THE ACTUARIAL PRESENT
 24 VALUE OF PROJECTED BENEFITS RESULTING FROM THE PURCHASE CALCULATED USING THE
 25 ACTUARIAL METHODS AND ASSUMPTIONS THAT ARE PRESCRIBED BY THE SYSTEM'S
 26 ACTUARY.

27 Sec. 26. Section 38-857, Arizona Revised Statutes, as amended by Laws
 28 2005, chapter 297, section 3, is amended to read:

29 38-857. Group health and accident coverage for retired members:
 30 payment; definition

31 A. The fund manager of the public safety personnel retirement system
 32 shall pay part of the single coverage premium of any group health and
 33 accident insurance for each retired member or survivor of the system who
 34 receives a pension and who has elected to participate in the coverage
 35 provided by section 38-651.01 or 38-782 or any other health and accident
 36 insurance coverage provided or administered by a participating employer of
 37 the system. The fund manager shall pay up to:

38 1. One hundred fifty dollars per month, OR THE ACTUAL COST OF THE
 39 MONTHLY INSURANCE PREMIUM, WHICHEVER IS LESS, for each retired member or
 40 survivor of the system who is not eligible for medicare.

41 2. One hundred dollars per month, OR THE ACTUAL COST OF THE MONTHLY
 42 INSURANCE PREMIUM, WHICHEVER IS LESS, for each retired member or survivor of
 43 the system who is eligible for medicare.

44 B. The fund manager of the system shall pay from assets of the fund
 45 part of the family coverage premium of any group health and accident

1 insurance each month for a benefit recipient who elects family coverage and
 2 otherwise qualifies for payment pursuant to subsection A of this
 3 section. The fund manager shall pay up to:

4 1. Two hundred sixty dollars per month, OR THE ACTUAL COST OF THE
 5 MONTHLY INSURANCE PREMIUM, WHICHEVER IS LESS, if the retired member or
 6 survivor of the system and one or more dependents are not eligible for
 7 medicare.

8 2. One hundred seventy dollars per month, OR THE ACTUAL COST OF THE
 9 MONTHLY INSURANCE PREMIUM, WHICHEVER IS LESS, if the retired member or
 10 survivor of the system and one or more dependents are eligible for medicare.

11 3. Two hundred fifteen dollars per month, OR THE ACTUAL COST OF THE
 12 MONTHLY INSURANCE PREMIUM, WHICHEVER IS LESS, if either:

13 (a) The retired member or survivor of the system is not eligible for
 14 medicare and one or more dependents are eligible for medicare.

15 (b) The retired member or survivor of the system is eligible for
 16 medicare and one or more dependents are not eligible for medicare.

17 C. The fund manager shall not pay from assets of the fund more than
 18 the amount prescribed in this section for a benefit recipient as a member or
 19 survivor of the system.

20 D. This section does not apply to a retired member or survivor of the
 21 system who is reemployed by this state or a political subdivision of this
 22 state and who participates in coverage provided by this state or a political
 23 subdivision of this state as ~~an active~~ A CURRENT employee. THOSE RETIRED
 24 MEMBERS OR SURVIVORS WHO ARE REEMPLOYED BY THIS STATE OR A POLITICAL
 25 SUBDIVISION OF THIS STATE AND WHO WERE RECEIVING THE SUBSIDY PROVIDED BY THIS
 26 SECTION ON JULY 21, 1997 MAY CONTINUE TO RECEIVE THE SUBSIDY AS LONG AS THE
 27 RETIRED MEMBER OR SURVIVOR CONTINUES EMPLOYMENT WITH THE SAME STATE AGENCY OR
 28 POLITICAL SUBDIVISION. ON TERMINATION OF THE EMPLOYMENT OR ON TRANSFER TO
 29 ANOTHER STATE AGENCY OR POLITICAL SUBDIVISION, THE FUND MANAGER SHALL
 30 DISCONTINUE THE PAYMENTS PROVIDED BY THIS SECTION, UNLESS THE RETIRED MEMBER
 31 OR SURVIVOR AGAIN BECOMES QUALIFIED TO RECEIVE A SUBSIDY PURSUANT TO THIS
 32 SECTION.

33 ~~E. In addition to the payments provided by subsection A of this~~
 34 ~~section, through June 30, 2005, the fund manager shall pay an insurance~~
 35 ~~premium benefit for medical coverage, not including limited benefit coverage~~
 36 ~~as defined in section 20-1137, for each retired member or survivor of the~~
 37 ~~system who is entitled to a premium benefit payment pursuant to subsection A~~
 38 ~~of this section and who lives in a nonservice area as follows:~~

39 ~~1. Up to three hundred dollars per month for a retired member or~~
 40 ~~survivor of the system who is not eligible for medicare. To qualify for this~~
 41 ~~additional benefit, a retired member or survivor shall pay out-of-pocket~~
 42 ~~medical insurance premiums of at least one hundred twenty-five dollars per~~
 43 ~~month.~~

44 ~~2. Up to one hundred seventy dollars per month for a retired member or~~
 45 ~~survivor of the system who is eligible for medicare. To qualify for this~~

~~additional benefit, a retired member or survivor shall pay out of pocket medical insurance premiums of at least one hundred dollars per month.~~

~~F. In addition to the payments provided by subsection B of this section, through June 30, 2005, the fund manager shall pay an insurance premium benefit for medical coverage, not including limited benefit coverage as defined in section 20-1137, for a retired member or survivor of the system who is entitled to a premium benefit payment pursuant to subsection B of this section, who is enrolled in a family medical plan and who lives in a nonservice area as follows:~~

~~1. Up to six hundred dollars per month if the retired member or survivor of the system and one or more dependents are not eligible for medicare. To qualify for this additional benefit, a retired member or survivor shall pay out of pocket medical insurance premiums of at least four hundred twenty-five dollars per month.~~

~~2. Up to three hundred fifty dollars per month if the retired member or survivor of the system and one or more dependents are eligible for medicare. To qualify for this additional benefit, a retired member or survivor shall pay out of pocket medical insurance premiums of at least two hundred dollars per month.~~

~~3. Up to four hundred seventy dollars per month if either:~~

~~(a) The retired member or survivor of the system is not eligible for medicare and one or more dependents are eligible for medicare.~~

~~(b) The retired member or survivor of the system is eligible for medicare and one or more dependents are not eligible for medicare.~~

~~To qualify for this additional benefit, a retired member or survivor shall pay out of pocket medical insurance premiums of at least four hundred dollars per month.~~

~~G.~~ E. In addition to the payments provided by subsection A of this section, beginning July 1, 2005 through June 30, 2007, the fund manager shall pay an insurance premium benefit for medical coverage, not including limited benefit coverage as defined in section 20-1137, for each medicare eligible retired member or survivor of the system who is entitled to a premium benefit payment pursuant to subsection A of this section and who lives in a nonservice area of up to one hundred seventy dollars per month for a retired member or survivor of the system who is eligible for medicare. To qualify for this additional benefit, a retired member or survivor shall pay out-of-pocket medical insurance premiums of at least one hundred dollars per month.

~~H.~~ F. In addition to the payments provided by subsection B of this section, beginning July 1, 2005 through June 30, 2007, the fund manager shall pay an insurance premium benefit for medical coverage, not including limited benefit coverage as defined in section 20-1137, for a medicare eligible retired member or survivor of the system who is entitled to a premium benefit payment pursuant to subsection B of this section, who is enrolled in a family medical plan and who lives in a nonservice area as follows:

1 1. Up to three hundred fifty dollars per month if the retired member
2 or survivor of the system and one or more dependents are eligible for
3 medicare. To qualify for this additional benefit, a retired member or
4 survivor shall pay out-of-pocket medical insurance premiums of at least two
5 hundred dollars per month.

6 2. Up to four hundred seventy dollars per month if the retired member
7 or survivor of the system is eligible for medicare and one or more dependents
8 are not eligible for medicare. To qualify for this additional benefit, a
9 retired member or survivor shall pay out-of-pocket medical insurance premiums
10 of at least four hundred dollars per month.

11 ~~I.~~ G. A retired member or survivor of the system who is enrolled in a
12 managed care program in a nonservice area is not eligible for the payment
13 prescribed in subsection E, ~~OR F, G or H~~ of this section ~~if the member~~
14 ~~terminates coverage under the managed care program.~~

15 ~~J.~~ H. ~~THROUGH JUNE 30, 2008,~~ a retired member or survivor of the
16 system may elect to purchase individual health care coverage and receive a
17 payment pursuant to this section through the retired member's ~~PRIOR~~ employer
18 if that employer assumes the administrative functions associated with the
19 payment, including verification that the payment is used to pay for health
20 insurance coverage if the payment is made to the retired member or survivor
21 of the system.

22 I. BEGINNING JULY 1, 2008, A RETIRED MEMBER OR SURVIVOR OF THE SYSTEM
23 MAY ELECT TO PURCHASE INDIVIDUAL HEALTH CARE COVERAGE AND RECEIVE A PAYMENT
24 PURSUANT TO THIS SECTION THROUGH THE RETIRED MEMBER'S EMPLOYER. IF THE
25 RETIRED MEMBER OR SURVIVOR MAKES THE ELECTION UNDER THIS SUBSECTION, THE
26 RETIRED MEMBER'S EMPLOYER SHALL PROVIDE THE ADMINISTRATIVE FUNCTIONS
27 ASSOCIATED WITH THE PAYMENT, INCLUDING VERIFICATION THAT THE PAYMENT IS USED
28 TO PAY FOR HEALTH INSURANCE. THE RETIRED MEMBER OR SURVIVOR IS RESPONSIBLE
29 FOR PROVIDING THE WRITTEN EVIDENCE OF COVERAGE TO THE EMPLOYER. ELIGIBILITY
30 FOR AND PAYMENT OF THE SUBSIDY SHALL BEGIN ON THE LAST DAY OF THE MONTH
31 FOLLOWING THE MONTH IN WHICH THE WRITTEN EVIDENCE IS RECEIVED BY THE
32 EMPLOYER. THE EMPLOYER IS NOT RESPONSIBLE FOR MAKING, AND IS NOT OBLIGATED
33 TO MAKE, RETROACTIVE SUBSIDY PAYMENTS TO THE INSURANCE CARRIER IF THE RETIRED
34 MEMBER OR SURVIVOR DOES NOT SUPPLY THE WRITTEN EVIDENCE OF COVERAGE IN A
35 TIMELY MANNER. THE PAYMENT ALLOWED PURSUANT TO THIS SUBSECTION IS LIMITED TO
36 NO MORE THAN TWENTY-FIVE DOLLARS PER MONTH.

37 ~~K.~~ J. For the purposes of this section, "nonservice area" means an
38 area in this state in which the Arizona state retirement system pursuant to
39 section 38-782, the department of administration pursuant to section
40 38-651.01 or the ~~RETIRED~~ member's or survivor's participating employer does
41 not provide or administer a health care services organization program,
42 excluding any preferred provider organization program or individual health
43 indemnity policy, for which the retired member or survivor of the system is
44 eligible.

1 Sec. 27. Repeal

2 Section ~~38-857~~, Arizona Revised Statutes, as amended by Laws 2004,
3 chapter 325, section 6, is repealed.

4 Sec. 28. Section 38-858, Arizona Revised Statutes, is amended to read:

5 ~~38-858.~~ Credit for military service: national guard or reserve
6 members: payment of contributions during active
7 military service

8 A. A member of the system may receive ~~credit~~ CREDITED SERVICE for
9 PERIODS OF ACTIVE MILITARY service ~~for active military service~~ PERFORMED
10 BEFORE EMPLOYMENT WITH THE MEMBER'S CURRENT PARTICIPATING EMPLOYER if:

11 1. The member was honorably separated from the military service.

12 2. The period of military service for which the member receives credit
13 for service does not exceed forty-eight months.

14 3. The period of military service for which the member receives
15 credited service is not on account with any other retirement system, EXCEPT
16 AS PROVIDED BY 10 UNITED STATES CODE SECTION 12736.

17 4. THE MEMBER PAYS THE COST TO PURCHASE THE PRIOR ACTIVE MILITARY
18 SERVICE. THE COST IS THE AMOUNT NECESSARY TO EQUAL THE INCREASE IN THE
19 ACTUARIAL PRESENT VALUE OF PROJECTED BENEFITS RESULTING FROM THE CREDIT USING
20 THE ACTUARIAL METHODS AND ASSUMPTIONS ADOPTED BY THE SYSTEM'S ACTUARY.

21 ~~B. Except as provided in subsection C, the cost to purchase the~~
22 ~~military service credit is based on the amount necessary to equal the~~
23 ~~increase in the actuarial present value of projected benefits resulting from~~
24 ~~the credit.~~

25 ~~C. For a period of time of active military service but for not more~~
26 ~~than forty eight months, an employer shall make employer contributions and~~
27 ~~member contributions for a person who was an active member of the system on~~
28 ~~the day before he began active military service, who satisfies the~~
29 ~~requirements of subsection A, paragraph 3 and who meets the following~~
30 ~~requirements:~~

31 B. EXCEPT AS REQUIRED BY THE UNIFORMED SERVICES EMPLOYMENT AND
32 REEMPLOYMENT RIGHTS ACT (38 UNITED STATES CODE SECTION 4312(c)), A MEMBER OF
33 THE SYSTEM MAY RECEIVE CREDITED SERVICE FOR NOT MORE THAN SIXTY MONTHS OF
34 MILITARY SERVICE WHILE EMPLOYED BY THE MEMBER'S CURRENT PARTICIPATING
35 EMPLOYER IF:

36 1. THE MEMBER is a member of the Arizona national guard or is a member
37 of the reserves of any military establishment of the United States.

38 ~~2. Volunteers or is ordered into active military service of the United~~
39 ~~States as part of a presidential call-up.~~

40 2. THE MEMBER WAS A MEMBER OF THE SYSTEM ON THE DAY BEFORE THE MEMBER
41 BEGAN MILITARY SERVICE.

42 3. THE PERIOD OF MILITARY SERVICE FOR WHICH THE MEMBER RECEIVES
43 CREDITED SERVICE IS NOT ON ACCOUNT WITH ANY OTHER RETIREMENT SYSTEM, EXCEPT
44 AS PROVIDED BY 10 UNITED STATES CODE SECTION 12736.

1 ~~3-~~ 4. THE MEMBER is honorably separated from ~~active~~ military service
 2 and returns to employment for the same employer from which ~~he~~ THE MEMBER left
 3 for ~~active~~ military service within ninety days after the date ~~active~~ military
 4 service is terminated or is hospitalized as a result of military service and
 5 returns to employment for the same employer from which ~~he~~ THE MEMBER left for
 6 ~~active~~ military service within ninety days after release from service related
 7 hospitalization or dies as a result of the military service.

8 C. FOR PERIODS OF TIME OF ACTIVE MILITARY SERVICE DUE TO A
 9 PRESIDENTIAL CALL-UP, NOT TO EXCEED FORTY-EIGHT MONTHS, AN EMPLOYER SHALL
 10 MAKE EMPLOYER AND MEMBER CONTRIBUTIONS PURSUANT TO SUBSECTION G.

11 D. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, FOR PERIODS OF TIME
 12 OF ACTIVE MILITARY SERVICE DUE TO A PRESIDENTIAL CALL-UP IN EXCESS OF
 13 FORTY-EIGHT MONTHS, AND FOR ALL OTHER PERIODS OF MILITARY SERVICE, AN
 14 EMPLOYER SHALL MAKE EMPLOYER CONTRIBUTIONS AND THE MEMBER SHALL MAKE MEMBER
 15 CONTRIBUTIONS. THE EMPLOYER MAY ELECT TO MAKE BOTH THE EMPLOYER AND THE
 16 MEMBER CONTRIBUTIONS CORRESPONDING TO PERIODS OF MILITARY SERVICE BEING
 17 PURCHASED PURSUANT TO THIS SECTION EXCEPT AS PROHIBITED BY LAW.

18 ~~D-~~ E. Contributions made pursuant to subsection C OR D shall be for
 19 the period of time beginning on the date the member began ~~active~~ military
 20 service and ending on one of the following dates:

21 1. The date the member is separated from ~~active~~ military service.
 22 2. The date the member is released from service related
 23 hospitalization or one year after initiation of service related
 24 hospitalization, whichever date is earlier.

25 3. The date the member dies as a result of ~~active~~ military service.

26 ~~E-~~ F. Notwithstanding any other law, on payment of the contributions
 27 made pursuant to subsection C OR D, the member shall be credited with service
 28 for retirement purposes for the period of time of ~~active~~ military service of
 29 not more than ~~forty-eight~~ SIXTY months.

30 ~~F-~~ G. FOR PERIOD OF ACTIVE MILITARY SERVICE DUE TO A PRESIDENTIAL
 31 CALL-UP, the employer shall make contributions pursuant to subsection C OR D
 32 based on the salary being received by the member immediately before the
 33 member volunteered or was ordered into active military service in a lump sum
 34 and without penalty when the member returns to employment or on receipt of
 35 the member's death certificate. If the member suffers a MILITARY service
 36 related death, the employer shall make the employer and member contributions
 37 up to and including the date of the member's death. Death benefits shall be
 38 calculated as prescribed by law. FOR ALL OTHER PERIODS OF MILITARY SERVICE,
 39 THE MEMBER HAS UP TO THREE TIMES THE PERIOD OF MILITARY SERVICE, UP TO A
 40 MAXIMUM OF FIVE YEARS, TO MAKE MEMBER CONTRIBUTIONS PURSUANT TO SUBSECTION D
 41 BASED ON THE SALARY BEING RECEIVED BY THE MEMBER IMMEDIATELY BEFORE THE
 42 MEMBER'S MILITARY SERVICE. ONCE THE MEMBER MAKES THE MEMBER CONTRIBUTIONS,
 43 THE EMPLOYER SHALL PAY THE EMPLOYER CONTRIBUTIONS.

~~G.~~ H. In computing the length of service of a member for the purpose of determining retirement benefits or eligibility, the period of military service, as prescribed by this section, shall be included.

~~H.~~ I. An applicant shall submit a copy of the military discharge certificate (DD-256A) and a copy of the military service record (DD-214) or its equivalent with the application when applying for the military service credit, except that members of the Arizona national guard and military reserves ordered into active military service as part of a presidential call-up are only required to submit a copy of the military service record (DD-214) or its equivalent.

~~I.~~ J. Notwithstanding any other law, the member is not required to reimburse ~~his~~ THE MEMBER'S employer or the system for any EMPLOYER contribution made pursuant to subsection C.

Sec. 29. Section 38-859, Arizona Revised Statutes, is amended to read:

38-859. Medical boards; purposes; composition; medical examinations

A. The purposes of a medical board are to:

1. Identify a physical or mental condition or injury that existed or occurred prior to the member's date of membership in the system and for which benefits may otherwise be limited by section 38-844, subsection ~~D~~ F.

2. Evaluate a member's eligibility for an accidental disability pension.

3. Evaluate a member's eligibility for an ordinary disability pension.

4. Evaluate a member's eligibility for a temporary disability pension.

5. Evaluate a member's eligibility for a catastrophic disability pension.

B. For the purpose of determining a disability, the medical board shall be composed of a designated physician or a clinic other than the employer's regular employee or contractee. Employees employed after October 1, 1992 shall undergo a medical examination for the purpose of identifying a physical or mental condition or injury that existed or occurred prior to a member's date of membership in the system and for which benefits may otherwise be limited by section 38-844, subsection ~~D~~ F, and for this purpose, the medical board shall be composed of a designated physician or a clinic that may be the employer's regular employee or contractee.

~~C. A finding of accidental, ordinary, temporary or catastrophic disability shall be based on medical evidence by a physician or clinic appointed by the local board pursuant to section 38-847, subsection D, paragraph 9 that established the disability. The local board shall resolve material conflicts in medical evidence. If required, the local board may employ other physicians or clinics to report on special cases. With the approval of the local board, a physician or clinic employed by the local board may employ occupational specialists to assist the physician or clinic in rendering an opinion.~~

1 C. LOCAL BOARDS SHALL RETAIN A PHYSICIAN OR CLINIC TO EXAMINE A MEMBER
2 WHO APPLIES FOR AN ACCIDENTAL, ORDINARY, TEMPORARY OR CATASTROPHIC DISABILITY
3 PENSION. THE PHYSICIAN OR CLINIC WHO IS APPOINTED BY THE LOCAL BOARD SHALL
4 OPINE AS TO WHETHER OR NOT THE MEMBER QUALIFIES FOR AN ACCIDENTAL, ORDINARY,
5 TEMPORARY OR CATASTROPHIC DISABILITY PENSION. WITH THE APPROVAL OF THE LOCAL
6 BOARD, THE PHYSICIAN OR CLINIC MAY REFER THE MEMBER TO A SPECIALIST AND MAY
7 RELY ON THE OPINION OF THAT SPECIALIST IN RENDERING THE PHYSICIAN'S OR
8 CLINIC'S OPINION. THE PHYSICIAN OR CLINIC MAY ALSO CONSIDER ANY MEDICAL
9 EVIDENCE THAT IS PROVIDED BY THE MEMBER OR THE MEMBER'S PHYSICIANS. THE
10 LOCAL BOARD SHALL BASE A FINDING OF ACCIDENTAL, ORDINARY, TEMPORARY OR
11 CATASTROPHIC DISABILITY SOLELY ON THE OPINION OF ITS APPOINTED PHYSICIAN OR
12 CLINIC. IF THE LOCAL BOARD RETAINS MORE THAN ONE PHYSICIAN OR CLINIC IN
13 CONNECTION WITH ANY APPLICATION, THE LOCAL BOARD SHALL RESOLVE MATERIAL
14 CONFLICTS IN THE MEDICAL EVIDENCE THAT IS PRESENTED BY THE PHYSICIANS OR
15 CLINICS.

16 D. All employees shall undergo medical examinations before a physician
17 or clinic appointed by the local board pursuant to and for the reasons
18 prescribed in this article. An employee who fails to comply with this
19 subsection waives all rights to disability benefits under this article.

20 E. The examining physician or clinic shall report the results of
21 examinations to the local board, and the secretary of the local board shall
22 preserve the report as a permanent record. Medical examinations conducted
23 pursuant to this article shall not be conducted or utilized for the purposes
24 of hiring, advancement, discharge, job training or other terms, conditions
25 and privileges of employment unrelated to the receipt of or qualification for
26 pension benefits or service credits under the system.

27 F. This section does not affect or impair the right of an employer to
28 prescribe medical or physical standards for employees or prospective
29 employees.

30 Sec. 30. Section 38-881, Arizona Revised Statutes, as amended by Laws
31 2006, chapter 264, section 13 and chapter 308, section 1, is amended to read:
32 38-881. Definitions

33 In this article, unless the context otherwise requires:

34 1. "Accidental disability" means a physical or mental condition that
35 the local board finds totally and permanently prevents an employee from
36 performing a reasonable range of duties within the employee's department, was
37 incurred in the performance of the employee's duties and was the result of
38 any of the following:

39 (a) Physical contact with inmates, prisoners, parolees or persons on
40 probation.

41 (b) Responding to a confrontational situation with inmates, prisoners,
42 parolees or persons on probation.

43 (c) A job related motor vehicle accident while on official business
44 for the employee's employer. A job related motor vehicle accident does not
45 include an accident that occurs on the way to or from work. Persons found

1 guilty of violating a personnel rule, a rule established by the employee's
2 employer or a state or federal law in connection with a job related motor
3 vehicle accident do not meet the conditions for accidental disability.

4 2. "Accumulated member contributions" means ~~FOR EACH MEMBER~~ the sum of
5 ~~THE AMOUNT OF~~ all ~~member~~ ~~THE MEMBER'S~~ contributions deducted from ~~a-~~ ~~THE~~
6 member's salary and paid to the fund, plus member contributions transferred
7 to the fund by another retirement plan covering public employees of this
8 state, plus previously withdrawn accumulated member contributions ~~which~~ ~~THAT~~
9 are repaid to the fund in accordance with this article, minus any benefits
10 paid to or on behalf of a member.

11 3. "ANNUITANT" MEANS A PERSON WHO IS RECEIVING A BENEFIT PURSUANT TO
12 SECTION 38-910.

13 ~~3-~~ 4. "Average monthly salary" means one-thirty-sixth of the
14 aggregate amount of salary that is paid a member by a participating employer
15 during a period of thirty-six consecutive months of service in which the
16 member received the highest salary within the last one hundred twenty months
17 of service. Average monthly salary means the aggregate amount of salary that
18 is paid a member divided by the member's months of service if the member has
19 less than thirty-six months of service. In the computation under this
20 paragraph, a period of nonpaid or partially paid industrial leave shall be
21 considered based on the salary the employee would have received in the
22 employee's job classification if the employee was not on industrial leave.

23 ~~4-~~ 5. "Beneficiary" means an individual who is being paid or who has
24 entitlement to the future payment of a pension on account of a reason other
25 than the individual's membership in the retirement plan.

26 ~~5-~~ 6. "Claimant" means a member, beneficiary or estate that files an
27 application for benefits with the retirement plan.

28 ~~6-~~ 7. "Credited service" means credited service transferred to the
29 retirement plan from another retirement system or plan for public employees
30 of this state, plus those compensated periods of service as a member of the
31 retirement plan for which member contributions are on deposit in the fund.

32 ~~7-~~ 8. "Designated position" means:

- 33 (a) For a county:
 - 34 (i) A county detention officer.
 - 35 (ii) A nonuniformed employee of a sheriff's department whose primary
 - 36 duties require direct contact with inmates.
- 37 (b) For the state department of corrections and the department of
- 38 juvenile corrections, only the following specifically designated positions:
 - 39 (i) Food service.
 - 40 (ii) Nursing personnel.
 - 41 (iii) Corrections physician assistant.
 - 42 (iv) Therapist.
 - 43 (v) Corrections dental assistant.
 - 44 (vi) Hygienist.
 - 45 (vii) Corrections medical assistant.

(viii) Correctional service officer, including assistant deputy warden, deputy warden, warden and superintendent.

(ix) State correctional program officer.

(x) Parole or community supervision officers.

(xi) Investigators.

(xii) Teachers.

(xiii) Institutional maintenance workers.

(xiv) Youth corrections officer.

(xv) Youth program officer.

(xvi) Behavioral health treatment unit managers.

(xvii) The director and assistant directors of the department of juvenile corrections and the superintendent of the state educational system for committed youth.

(xviii) The director, deputy directors and assistant directors of the state department of corrections.

(xix) Other positions designated by the local board of the state department of corrections or the local board of the department of juvenile corrections pursuant to section 38-891, subsection E.

(c) For a city or town, a city or town detention officer.

(d) For an employer of an eligible group as defined in section 38-842, full-time dispatchers **OR DETENTION OFFICERS**.

(e) For the judiciary, probation, surveillance and juvenile detention officers.

9. "ELIGIBLE CHILD" MEANS AN UNMARRIED CHILD OF A DECEASED ACTIVE OR RETIRED MEMBER WHO MEETS ONE OF THE FOLLOWING QUALIFICATIONS:

(a) **IS UNDER EIGHTEEN YEARS OF AGE.**

(b) **IS AT LEAST EIGHTEEN YEARS OF AGE AND UNDER TWENTY-THREE YEARS OF AGE AND DURING THIS PERIOD IS A FULL-TIME STUDENT.**

(c) **IS UNDER A DISABILITY THAT BEGAN BEFORE THE CHILD ATTAINED TWENTY-THREE YEARS OF AGE AND REMAINS A DEPENDENT OF THE SURVIVING SPOUSE OR GUARDIAN.**

~~8-~~ **10. "Employee" means a person determined by the local board to be** employed by a participating employer in a designated position.

~~9-~~ **11. "Employer" means an agency or department of this state or a political subdivision of this state which THAT has one or more employees in a designated position AND INDIAN TRIBES THAT HAVE ELECTED TO PARTICIPATE IN THE PLAN ON BEHALF OF AN ELIGIBLE GROUP OF DISPATCHERS OR DETENTION OFFICERS PURSUANT TO A JOINDER AGREEMENT ENTERED INTO AFTER JULY 1, 1986.**

~~10-~~ **12. "Fund" means the corrections officer retirement plan fund.**

~~11-~~ **13. "Fund manager" means the fund manager of the public safety personnel retirement system.**

14. "INTERNAL REVENUE CODE" HAS THE SAME MEANING PRESCRIBED IN SECTION 42-1001.

~~12-~~ 15. "Juvenile detention officer" means a juvenile detention officer responsible for the direct custodial supervision of juveniles who are detained in a county juvenile detention center.

16. "KILLED IN THE LINE OF DUTY" MEANS THE DECEDENT'S DEATH WAS THE DIRECT AND PROXIMATE RESULT OF PHYSICAL INJURIES INCURRED IN THE PERFORMANCE OF THE DECEDENT'S PUBLIC SAFETY DUTIES AND DOES NOT INCLUDE SUICIDE.

~~13-~~ 17. "Local board" means the retirement board of the employer that consists of persons appointed or elected to administer the plan as it applies to the employer's members in the plan.

~~14-~~ 18. "Member" means any employee who meets all of the following qualifications:

(a) Who is a full-time paid person employed by a participating employer in a designated position.

(b) Who is receiving salary for personal services rendered to a participating employer or would be receiving salary except for an authorized leave of absence.

(c) Whose customary employment is at least forty hours each week and for more than six months in a calendar year.

~~15-~~ 19. "Normal retirement date" means the first day of the calendar month immediately following an employee's completion of twenty years of service or, in the case of a dispatcher, twenty-five years of service, the employee's sixty-second birthday and completion of ten years of service or the month in which the sum of the employee's age and years of credited service equals eighty.

20. "ORDINARY DISABILITY" MEANS A PHYSICAL CONDITION THAT THE LOCAL BOARD DETERMINES WILL PREVENT AN EMPLOYEE FROM TOTALLY AND PERMANENTLY PERFORMING A REASONABLE RANGE OF DUTIES WITHIN THE EMPLOYEE'S DEPARTMENT OR A MENTAL CONDITION THAT THE LOCAL BOARD DETERMINES WILL PREVENT AN EMPLOYEE FROM TOTALLY AND PERMANENTLY ENGAGING IN ANY SUBSTANTIAL GAINFUL ACTIVITY.

~~16-~~ 21. "Participating employer" means an employer ~~which~~ THAT the fund manager has determined to have one or more employees in a designated position or a county, city or town ~~which~~ THAT has entered into a joinder agreement pursuant to section 38-902.

~~17-~~ 22. "Pension" means a series of monthly payments by the retirement plan ~~BUT DOES NOT INCLUDE AN ANNUITY THAT IS PAYABLE PURSUANT TO SECTION 38-910.~~

~~18-~~ 23. "Probation or surveillance officer" means an officer appointed pursuant to section 8-203, 12-251 or 12-259 but does not include other personnel, office assistants or support staff.

24. "QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT" MEANS A PORTION OF THE PLAN IF:

(a) THE PORTION IS MAINTAINED SOLELY TO PROVIDE TO MEMBERS OF THE PLAN THAT PART OF A MEMBER'S ANNUAL BENEFIT THAT IS OTHERWISE PAYABLE UNDER THE TERMS OF THE PLAN AND THAT EXCEEDS THE LIMITATIONS IMPOSED BY SECTION 415 OF THE INTERNAL REVENUE CODE.

(b) UNDER THAT PORTION, A DIRECT OR INDIRECT ELECTION TO DEFER COMPENSATION IS NOT PROVIDED AT ANY TIME TO THE MEMBER.

(c) EXCESS BENEFITS ARE NOT PAID FROM A TRUST THAT IS A PART OF THE PLAN UNLESS THE TRUST IS MAINTAINED SOLELY FOR THE PURPOSE OF PROVIDING EXCESS BENEFITS.

~~19-~~ 25. "Retired member" means an individual who ~~is being paid a pension on account of the individual's membership in the retirement plan~~ TERMINATES EMPLOYMENT AND IS RECEIVING A PENSION PURSUANT TO EITHER SECTION 38-885 OR 38-886.

~~20-~~ 26. "Retirement" OR "RETIRED" means termination of employment after a member has fulfilled all requirements for a pension.

~~21-~~ 27. "Retirement plan" or "plan" means the corrections officer retirement plan established by this article.

~~22-~~ 28. "Salary" means the base salary, shift differential pay and holiday pay paid a member in a designated position for personal services rendered to a participating employer on a regular monthly, semimonthly or biweekly payroll basis. Salary includes amounts that are subject to deferred compensation or tax shelter agreements. Salary does not include payment for any remuneration or reimbursement other than as prescribed by this paragraph. For the purposes of this paragraph, "base salary" means the amount of compensation each member is regularly paid for personal services rendered to an employer before the addition of any extra monies, including overtime pay, shift differential pay, holiday pay, fringe benefit pay and similar extra payments.

~~23-~~ 29. "Service" means employment rendered to a participating employer as an employee in a designated position. Any absence that is authorized by an employer, including any periods during which the employee is on an employer sponsored long-term disability program, is considered as service if the employee returns or is deemed by the employer to have returned to a designated position within the period of the authorized absence.

~~24-~~ 30. "Total and permanent disability" means a physical or mental condition that is not an accidental disability, that the local board finds totally and permanently prevents a member from engaging in any gainful employment and that is the direct and proximate result of the member's performance of the member's duty as an employee of a participating employer.

Sec. 31. Section 38-881, Arizona Revised Statutes, as amended by Laws 2006, chapter 264, section 14 and chapter 308, section 2, is amended to read:

38-881. Definitions

In this article, unless the context otherwise requires:

1. "Accidental disability" means a physical or mental condition that the local board finds totally and permanently prevents an employee from performing a reasonable range of duties within the employee's department, was incurred in the performance of the employee's duties and was the result of any of the following:

(a) Physical contact with inmates, prisoners, parolees or persons on probation.

(b) Responding to a confrontational situation with inmates, prisoners, parolees or persons on probation.

(c) A job related motor vehicle accident while on official business for the employee's employer. A job related motor vehicle accident does not include an accident that occurs on the way to or from work. Persons found guilty of violating a personnel rule, a rule established by the employee's employer or a state or federal law in connection with a job related motor vehicle accident do not meet the conditions for accidental disability.

2. "Accumulated member contributions" means ~~FOR EACH MEMBER~~ the sum of ~~THE AMOUNT OF~~ all ~~member~~ ~~THE MEMBER'S~~ contributions deducted from ~~a~~ ~~THE~~ member's salary and paid to the fund, plus member contributions transferred to the fund by another retirement plan covering public employees of this state, plus previously withdrawn accumulated member contributions ~~which~~ ~~THAT~~ are repaid to the fund in accordance with this article, minus any benefits paid to or on behalf of a member.

3. "ANNUITANT" MEANS A PERSON WHO IS RECEIVING A BENEFIT PURSUANT TO SECTION 38-910.

~~3-~~ 4. "Average monthly salary" means one-thirty-sixth of the aggregate amount of salary that is paid a member by a participating employer during a period of thirty-six consecutive months of service in which the member received the highest salary within the last one hundred twenty months of service. Average monthly salary means the aggregate amount of salary that is paid a member divided by the member's months of service if the member has less than thirty-six months of service. In the computation under this paragraph, a period of nonpaid or partially paid industrial leave shall be considered based on the salary the employee would have received in the employee's job classification if the employee was not on industrial leave.

~~4-~~ 5. "Beneficiary" means an individual who is being paid or who has entitlement to the future payment of a pension on account of a reason other than the individual's membership in the retirement plan.

~~5-~~ 6. "Claimant" means a member, beneficiary or estate that files an application for benefits with the retirement plan.

~~6-~~ 7. "Credited service" means credited service transferred to the retirement plan from another retirement system or plan for public employees of this state, plus those compensated periods of service as a member of the retirement plan for which member contributions are on deposit in the fund.

~~7-~~ 8. "Designated position" means:

(a) For a county:

(i) A county detention officer.

(ii) A nonuniformed employee of a sheriff's department whose primary duties require direct contact with inmates.

(b) For the state department of corrections and the department of juvenile corrections, only the following specifically designated positions:

- 1 (i) Food service.
- 2 (ii) Nursing personnel.
- 3 (iii) Corrections physician assistant.
- 4 (iv) Therapist.
- 5 (v) Corrections dental assistant.
- 6 (vi) Hygienist.
- 7 (vii) Corrections medical assistant.
- 8 (viii) Correctional service officer, including assistant deputy
- 9 warden, deputy warden, warden and superintendent.
- 10 (ix) State correctional program officer.
- 11 (x) Parole or community supervision officers.
- 12 (xi) Investigators.
- 13 (xii) Teachers.
- 14 (xiii) Institutional maintenance workers.
- 15 (xiv) Youth corrections officer.
- 16 (xv) Youth program officer.
- 17 (xvi) Behavioral health treatment unit managers.
- 18 (xvii) The director and assistant directors of the department of
- 19 juvenile corrections and the superintendent of the state educational system
- 20 for committed youth.
- 21 (xviii) The director, deputy directors and assistant directors of the
- 22 state department of corrections.
- 23 (xix) Other positions designated by the local board of the state
- 24 department of corrections or the local board of the department of juvenile
- 25 corrections pursuant to section 38-891, subsection E.
- 26 (c) For a city or town, a city or town detention officer.
- 27 (d) For an employer of an eligible group as defined in section 38-842,
- 28 full-time dispatchers **OR DETENTION OFFICERS**.
- 29 (e) For the judiciary, probation, surveillance and juvenile detention
- 30 officers.

31 **9. "ELIGIBLE CHILD" MEANS AN UNMARRIED CHILD OF A DECEASED ACTIVE OR**
32 **RETIRED MEMBER WHO MEETS ONE OF THE FOLLOWING QUALIFICATIONS:**

- 33 (a) **IS UNDER EIGHTEEN YEARS OF AGE.**
- 34 (b) **IS AT LEAST EIGHTEEN YEARS OF AGE AND UNDER TWENTY-THREE YEARS OF**
35 **AGE AND DURING THIS PERIOD IS A FULL-TIME STUDENT.**
- 36 (c) **IS UNDER A DISABILITY THAT BEGAN BEFORE THE CHILD ATTAINED**
37 **TWENTY-THREE YEARS OF AGE AND REMAINS A DEPENDENT OF THE SURVIVING SPOUSE OR**
38 **GUARDIAN.**

39 ~~8-~~ 10. "Employee" means a person ~~determined by the local board to be~~
40 employed by a participating employer in a designated position.

41 ~~9-~~ 11. "Employer" means an agency or department of this state or a
42 political subdivision of this state ~~which~~ **THAT** has one or more employees in a
43 designated position **AND INDIAN TRIBES THAT HAVE ELECTED TO PARTICIPATE IN THE**
44 **PLAN ON BEHALF OF AN ELIGIBLE GROUP OF DISPATCHERS OR DETENTION OFFICERS**
45 **PURSUANT TO A JOINDER AGREEMENT ENTERED INTO AFTER JULY 1, 1986.**

1 ~~10.~~ 12. "Fund" means the corrections officer retirement plan fund.
2 ~~11.~~ 13. "Fund manager" means the fund manager of the public safety
3 personnel retirement system.
4 14. "INTERNAL REVENUE CODE" HAS THE SAME MEANING PRESCRIBED IN SECTION
5 42-1001.
6 ~~12.~~ 15. "Juvenile detention officer" means a detention officer
7 responsible for the direct custodial supervision of juveniles who are
8 detained in a county juvenile detention center.
9 16. "KILLED IN THE LINE OF DUTY" MEANS THE DECEDENT'S DEATH WAS THE
10 DIRECT AND PROXIMATE RESULT OF PHYSICAL INJURIES INCURRED IN THE PERFORMANCE
11 OF THE DECEDENT'S PUBLIC SAFETY DUTIES AND DOES NOT INCLUDE SUICIDE.
12 ~~13.~~ 17. "Local board" means the retirement board of the employer that
13 consists of persons appointed or elected to administer the plan as it applies
14 to the employer's members in the plan.
15 ~~14.~~ 18. "Member" means any employee who meets all of the following
16 qualifications:
17 (a) Who is a full-time paid person employed by a participating
18 employer in a designated position.
19 (b) Who is receiving salary for personal services rendered to a
20 participating employer or would be receiving salary except for an authorized
21 leave of absence.
22 (c) Whose customary employment is at least forty hours each week and
23 for more than six months in a calendar year.
24 ~~15.~~ 19. "Normal retirement date" means the first day of the calendar
25 month immediately following an employee's completion of twenty years of
26 service or, in the case of a dispatcher, twenty-five years of service, the
27 employee's sixty-second birthday and completion of ten years of service or
28 the month in which the sum of the employee's age and years of credited
29 service equals eighty.
30 20. "ORDINARY DISABILITY" MEANS A PHYSICAL CONDITION THAT THE LOCAL
31 BOARD DETERMINES WILL PREVENT AN EMPLOYEE FROM TOTALLY AND PERMANENTLY
32 PERFORMING A REASONABLE RANGE OF DUTIES WITHIN THE EMPLOYEE'S DEPARTMENT OR A
33 MENTAL CONDITION THAT THE LOCAL BOARD DETERMINES WILL PREVENT AN EMPLOYEE
34 FROM TOTALLY AND PERMANENTLY ENGAGING IN ANY SUBSTANTIAL GAINFUL ACTIVITY.
35 ~~16.~~ 21. "Participating employer" means an employer ~~which~~ THAT the fund
36 manager has determined to have one or more employees in a designated position
37 or a county, city or town ~~which~~ THAT has entered into a joinder agreement
38 pursuant to section 38-902.
39 ~~17.~~ 22. "Pension" means a series of monthly payments by the retirement
40 plan BUT DOES NOT INCLUDE AN ANNUITY THAT IS PAYABLE PURSUANT TO SECTION
41 38-910.
42 ~~18.~~ 23. "Probation or surveillance officer" means an officer appointed
43 pursuant to section 8-203, 12-251 or 12-259 but does not include other
44 personnel, office assistants or support staff.

24. "QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT" MEANS A PORTION OF THE PLAN IF:

(a) THE PORTION IS MAINTAINED SOLELY TO PROVIDE TO MEMBERS OF THE PLAN THAT PART OF A MEMBER'S ANNUAL BENEFIT THAT IS OTHERWISE PAYABLE UNDER THE TERMS OF THE PLAN AND THAT EXCEEDS THE LIMITATIONS IMPOSED BY SECTION 415 OF THE INTERNAL REVENUE CODE.

(b) UNDER THAT PORTION, A DIRECT OR INDIRECT ELECTION TO DEFER COMPENSATION IS NOT PROVIDED AT ANY TIME TO THE MEMBER.

(c) EXCESS BENEFITS ARE NOT PAID FROM A TRUST THAT IS A PART OF THE PLAN UNLESS THE TRUST IS MAINTAINED SOLELY FOR THE PURPOSE OF PROVIDING EXCESS BENEFITS.

~~19.~~ 25. "Retired member" means an individual who ~~is being paid a pension on account of the individual's membership in the retirement plan~~ TERMINATES EMPLOYMENT AND IS RECEIVING A PENSION PURSUANT TO EITHER SECTION 38-885 OR 38-886.

~~20.~~ 26. "Retirement" OR "RETIRED" means termination of employment after a member has fulfilled all requirements for a pension.

~~21.~~ 27. "Retirement plan" or "plan" means the corrections officer retirement plan established by this article.

~~22.~~ 28. "Salary" means the base salary, overtime pay, shift differential pay and holiday pay paid a member in a designated position for personal services rendered to a participating employer on a regular monthly, semimonthly or biweekly payroll basis, except that for the purposes of this paragraph the amount of overtime included shall not include payments to the member for the sale of compensatory time. Salary includes amounts that are subject to deferred compensation or tax shelter agreements. Salary does not include payment for any remuneration or reimbursement other than as prescribed by this paragraph. For the purposes of this paragraph, "base salary" means the amount of compensation each member is regularly paid for personal services rendered to an employer before the addition of any extra monies, including overtime pay, shift differential pay, holiday pay, payments for the sale of compensatory time, fringe benefit pay and similar extra payments.

~~23.~~ 29. "Service" means employment rendered to a participating employer as an employee in a designated position. Any absence that is authorized by an employer, including any periods during which the employee is on an employer sponsored long-term disability program, is considered as service if the employee returns or is deemed by the employer to have returned to a designated position within the period of the authorized absence.

~~24.~~ 30. "Total and permanent disability" means a physical or mental condition that is not an accidental disability, that the local board finds totally and permanently prevents a member from engaging in any gainful employment and that is the direct and proximate result of the member's performance of the member's duty as an employee of a participating employer.

1 Sec. 32. Section 38-882, Arizona Revised Statutes, is amended to read:

2 38-882. Corrections officer retirement plan and fund:
3 administration

4 A. The corrections officer retirement plan and the corrections officer
5 retirement plan fund are established.

6 B. The fund consists of the monies and assets generated by the
7 operation of the retirement plan. The fund shall be used exclusively to pay
8 benefits to and on behalf of members and beneficiaries in accordance with the
9 provisions of this article and to pay the administration, operation and
10 investment expenses of the plan and fund. In no case shall all or any
11 portion of the fund revert or otherwise be paid to an employer.

12 C. The fund manager is entitled to administer, manage and operate the
13 plan and fund.

14 D. THE CORRECTIONS OFFICER RETIREMENT PLAN IS A JURAL ENTITY THAT MAY
15 SUE AND BE SUED.

16 Sec. 33. Section 38-883, Arizona Revised Statutes, is amended to read:

17 38-883. Fund manager; powers and duties

18 A. The fund manager shall:

19 1. Maintain records of the operation and administration of the plan
20 and fund.

21 2. Contract on a fee basis for an independent annual audit of the
22 accounting records of the plan and fund and file a copy of the audit report
23 with the auditor general.

24 3. Employ on a fee basis an independent firm of actuaries to perform
25 annual actuarial valuations for each participating employer of the plan and
26 fund based on an actuarial cost method and actuarial assumptions recommended
27 by the actuary and adopted by the fund manager. The actuarial valuations
28 shall be performed by or under the direct supervision of an actuary who is a
29 member of the American academy of actuaries. By November 1 of each year the
30 fund manager shall provide a preliminary report and by December 15 of each
31 year provide a final report to the governor, the speaker of the house of
32 representatives and the president of the senate on the contribution rate for
33 the ensuing fiscal year.

34 4. Invest and reinvest the monies and assets of the fund in accordance
35 with the investment provisions of the public safety personnel retirement
36 system. The fund manager may commingle securities and monies of the fund
37 subject to the crediting of receipts and earnings and charging of payments to
38 the account of the appropriate employer.

39 5. Submit a detailed annual report of the operation and investment
40 performance of the plan and fund to the governor, the legislature and the
41 members of the plan. The fund manager shall submit the annual report no
42 later than six months after the end of the fiscal year to which it pertains.

43 B. The fund manager may:

44 1. Employ services it deems necessary, including legal services, for
45 the operation and administration of the plan and fund.

1 2. Utilize separate or commingled investment vehicles.
2 3. Delegate authority to the administrator employed pursuant to
3 section 38-848, subsection K, paragraph 6.
4 4. Appear before local boards and the courts and political
5 subdivisions of this state through counsel or appointed representatives to
6 protect the fund. The fund manager is not responsible for the actions or
7 omissions of the local boards under this plan but may seek review or a
8 rehearing of actions or omissions of local boards. The fund manager does not
9 have a duty to review actions of the local boards but may do so, in its
10 discretion, in order to protect the fund.
11 5. APPEAR ON BEHALF OF THE PLAN IN A COURT THROUGH COUNSEL OR AN
12 APPOINTED REPRESENTATIVE TO PROTECT THE PLAN. THE ATTORNEY GENERAL SHALL
13 OBTAIN THE WRITTEN CONSENT OF THE FUND MANAGER IN ORDER TO SETTLE A CLAIM ON
14 BEHALF OF THE FUND MANAGER OR THE PLAN PURSUANT TO SECTION 41-192. WITHOUT
15 THIS CONSENT, THE PLAN IS NOT BOUND BY ANY SETTLEMENT PURPORTED TO BE
16 NEGOTIATED ON ITS BEHALF BY THE ATTORNEY GENERAL.
17 ~~5-~~ 6. Perform all acts, whether or not expressly authorized, ~~which~~
18 ~~THAT~~ it deems necessary and proper for the protection of the plan and fund.
19 Sec. 34. Section 38-883.01, Arizona Revised Statutes, is amended to
20 read:
21 38-883.01. Qualified governmental excess benefit arrangement
22 A. The fund manager may establish a qualified governmental excess
23 benefit arrangement for the sole purpose of enabling the fund manager to
24 continue to apply the same formula for determining benefits payable to all
25 employees covered by the plan whose benefits under the plan are limited by
26 section 415 of the internal revenue code.
27 B. The fund manager shall administer the qualified governmental excess
28 benefit arrangement. The fund manager has full discretionary fiduciary
29 authority to determine all questions arising in connection with the
30 arrangement, including its interpretation and any factual questions arising
31 under the arrangement.
32 C. All members and retired members of the plan are eligible to
33 participate in the qualified governmental excess benefit arrangement if their
34 benefits under the plan would exceed the limitations imposed by section 415
35 of the internal revenue code.
36 D. On or after the effective date of the qualified governmental excess
37 benefit arrangement, the employer shall pay to each eligible member of the
38 plan who retires on or after the effective date and to each retired member
39 who retired before the effective date and that member's beneficiary, if
40 required, a supplemental pension benefit equal to the amount by which the
41 benefit that would have been payable under the plan, without regard to any
42 provisions in the plan incorporating the limitation on benefits imposed by
43 section 415 of the internal revenue code, exceeds the benefit actually
44 payable taking into account the limitation imposed on the plan by section 415
45 of the internal revenue code. The fund manager shall compute and pay the

1 supplemental pension benefits under the same terms and conditions and to the
 2 same person as the benefits payable to or on account of a retired member
 3 under the plan.

4 E. The employer shall not fund benefits payable under the qualified
 5 governmental excess benefit arrangement. The employer shall pay benefits
 6 payable under the qualified governmental excess benefit arrangement out of
 7 the general assets of the employer. For administrative purposes, the
 8 employer may establish a grantor trust for the benefit of eligible members.
 9 The employer shall be treated as grantor of the trust for purposes of section
 10 677 of the internal revenue code. The rights of any person to receive
 11 benefits under the qualified governmental excess benefit arrangement are
 12 limited to those of a general creditor of the employer.

13 F. The terms and conditions contained in the plan, other than those
 14 relating to the benefit limitation imposed by section 415 of the internal
 15 revenue code, apply, unless the terms and conditions are inconsistent with
 16 the purpose of the qualified governmental excess benefit arrangement.

17 ~~G. For the purposes of this section:~~

18 ~~1. "Internal revenue code" has the same meaning prescribed in section~~
 19 ~~42-1001.~~

20 ~~2. "Qualified governmental excess benefit arrangement" means a portion~~
 21 ~~of the plan if:~~

22 ~~(a) The portion is maintained solely to provide to members of the plan~~
 23 ~~that part of a member's annual benefit that is otherwise payable under the~~
 24 ~~terms of the plan and that exceeds the limitations imposed by section 415 of~~
 25 ~~the internal revenue code.~~

26 ~~(b) Under that portion, a direct or indirect election to defer~~
 27 ~~compensation is not provided at any time to the member.~~

28 ~~(c) Excess benefits are not paid from a trust that is a part of the~~
 29 ~~plan unless the trust is maintained solely for the purpose of providing~~
 30 ~~excess benefits.~~

31 Sec. 35. Section 38-884, Arizona Revised Statutes, as amended by Laws
 32 2006, chapter 241, section 1, is amended to read:

33 38-884. Membership of retirement plan; termination; credited
 34 service; redemption

35 A. Each employee of a participating employer is a member of the plan
 36 unless the employee is receiving a pension from the plan. A person employed
 37 shall undergo a medical examination performed by a doctor or clinic appointed
 38 by the local board or, in the case of a state correctional officer who is
 39 employed by the state department of corrections, complete a physical
 40 examination pursuant to section 41-1822, subsection B. For the purposes of
 41 subsection B of this section, the doctor or clinic appointed by the local
 42 board may be the employer's regular employee or contractor.

43 B. The purpose of the medical examination authorized by this section
 44 is to identify a member's physical or mental condition or injury that existed
 45 or occurred before the member's date of membership in the plan. Any employee

1 who fails or refuses to submit to the medical examination prescribed in this
2 section is deemed to waive all rights to disability benefits under this
3 article. Medical examinations conducted under this article shall not be
4 conducted or used for purposes of hiring, advancement, discharge, job
5 training or other terms, conditions and privileges of employment unrelated to
6 receipt or qualification for pension benefits or service credits from the
7 fund. This subsection does not affect or impair the right of an employer to
8 prescribe medical or physical standards for employees or prospective
9 employees.

10 C. If a member ceases to be an employee for any reason other than
11 death or retirement, within twenty days after filing a completed application
12 with the fund manager, the member is entitled to receive the following
13 amounts, less any benefit payments the member has received and any amount the
14 member may owe to the plan:

15 1. If the member has less than five years of credited service with the
16 plan, the member may withdraw the member's accumulated contributions from the
17 plan.

18 2. If the member has five or more years of credited service with the
19 plan, the member may withdraw the member's accumulated contributions plus an
20 amount equal to the amount determined as follows:

21 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all
22 member contributions deducted from the member's salary pursuant to section
23 38-891, subsection B.

24 (b) 6.0 to 6.9 years of credited service, forty per cent of all member
25 contributions deducted from the member's salary pursuant to section 38-891,
26 subsection B.

27 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all
28 member contributions deducted from the member's salary pursuant to section
29 38-891, subsection B.

30 (d) 8.0 to 8.9 years of credited service, seventy per cent of all
31 member contributions deducted from the member's salary pursuant to section
32 38-891, subsection B.

33 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all
34 member contributions deducted from the member's salary pursuant to section
35 38-891, subsection B.

36 (f) 10.0 or more years of credited service, one hundred per cent of
37 all member contributions deducted from the member's salary pursuant to
38 section 38-891, subsection B.

39 D. If a member has more than ten years of credited service with the
40 plan, leaves the monies prescribed in subsection C of this section on account
41 with the plan for more than thirty days after termination of employment and
42 after that time period requests a refund of those monies, the member is
43 entitled to receive the amount prescribed in subsection C of this section
44 plus interest at a rate determined by the fund manager for each year computed
45 from and after the member's termination of employment.

1 E. If the refund includes monies that are an eligible rollover
2 distribution and the member elects to have the distribution paid directly to
3 an eligible retirement plan or individual retirement account or annuity and
4 specifies the eligible retirement plan or individual retirement account or
5 annuity to which the distribution is to be paid, the distribution shall be
6 made in the form of a direct trustee-to-trustee transfer to the specified
7 eligible retirement plan. The distribution shall be made in the form and at
8 the time prescribed by the fund manager.

9 F. Service shall be credited to a member's individual credited service
10 account in accordance with rules the local board prescribes. In no case
11 shall more than twelve months of credited service be credited on account of
12 all service rendered by a member in any one year. In no case shall service
13 be credited for any period during which the member is not employed in a
14 designated position, except as provided by sections 38-921 and 38-922.

15 G. Credited service is forfeited if the amounts prescribed in
16 subsection C or D of this section are paid or are transferred in accordance
17 with this section.

18 H. If a former member becomes reemployed with the same employer within
19 two years after the former member's termination date, a member may have
20 forfeited credited service attributable to service rendered during a prior
21 period of service as an employee restored on satisfaction of each of the
22 following conditions:

23 1. The member files with the plan a written application for
24 reinstatement of forfeited credited service within ninety days after again
25 becoming an employee.

26 2. The retirement fund is paid the total amount previously withdrawn
27 pursuant to subsection C or D of this section plus compound interest from the
28 date of withdrawal to the dates of repayment. Interest shall be computed at
29 the rate of nine per cent for each year compounded each year from the date of
30 withdrawal to the date of repayment. Forfeited credited service shall not be
31 restored until complete payment is received by the fund.

32 3. The required payment is completed within one year after returning
33 to employee status.

34 I. A present active member of the plan who received a refund of
35 accumulated contributions from the plan pursuant to subsection C or D of this
36 section and forfeited credited service pursuant to subsection G of this
37 section may elect to redeem any part of that forfeited credited service by
38 paying into the plan any amounts required pursuant to this subsection. A
39 present active member who elects to redeem any part of forfeited credited
40 service for which the member is deemed eligible by the fund manager shall pay
41 into the plan the amounts previously paid or transferred as a refund of the
42 member's accumulated contributions plus an amount, computed by the plan's
43 actuary, that is necessary to equal the increase in the actuarial present
44 value of projected benefits resulting from the redemption calculated using
45 the actuarial methods and assumptions prescribed by the plan's actuary.

J. A retired member who retires before January 1, 2006 may become employed by an employer in a designated position and still continue to receive a pension if the employment occurs at least ninety days after retirement and if the employment involves substantial direct inmate contact. The retired member shall not contribute to the fund and shall not accrue credited service.

K. If a retired member retires on or after January 1, 2006, ~~AND becomes employed by an employer in a designated position before ninety days after retirement or if the employment does not involve substantial direct inmate contact:~~

1. Payment of the retired member's pension shall be suspended until the retired member again ceases to be an employee. The amount of pension shall not be changed on account of service as an employee subsequent to retirement.

2. The retired member shall not contribute to the fund and shall not accrue credited service.

Sec. 36. Section 38-885.01, Arizona Revised Statutes, is amended to read:

38-885.01. Reverse deferred retirement option plan; purpose

A. A reverse deferred retirement option plan is established. The purpose of the reverse deferred retirement option plan is to add flexibility to the plan and to provide members who elect to participate in the reverse deferred retirement option plan access to a lump sum benefit in addition to their normal monthly retirement benefit on actual retirement.

B. Beginning on July 1, 2006 through June 30, 2011, the fund manager shall offer the reverse deferred retirement option plan to members on a voluntary basis as an alternative method of benefit accrual under the plan.

C. Any member who is eligible for a normal pension pursuant to section 38-885, ~~and~~ WHO IS NOT AWARDED AN ACCIDENTAL, ORDINARY OR TOTAL AND PERMANENT DISABILITY PENSION AND who has at least twenty-four years of credited service, OR IN THE CASE OF A DISPATCHER, WHO HAS AT LEAST TWENTY-FIVE YEARS OF CREDITED SERVICE, is eligible to participate in the reverse deferred retirement option plan.

D. A member who elects to participate in the reverse deferred retirement option plan shall voluntarily and irrevocably:

1. Designate a reverse deferred retirement option plan date that is the first day of the calendar month immediately following a member's completion of twenty-four years of credited service or a date not more than sixty consecutive months before the date the member elects to participate in the reverse deferred retirement option plan, whichever is later.

2. Agree to terminate employment on the date the member elects to participate in the reverse deferred retirement option plan.

3. Receive benefits from the plan on termination of employment at the same time and in the same manner as otherwise prescribed in this article using the factors of credited service and average monthly salary in effect on the reverse deferred retirement option plan date.

E. On election, a reverse deferred retirement option plan participation account is established within the plan on behalf of each reverse deferred retirement option plan participant. All benefits accrued pursuant to this article shall be accounted for in the reverse deferred retirement option plan participation account. A reverse deferred retirement option plan participant does not have a claim on the assets of the plan with respect to the member's reverse deferred retirement option plan participation account and assets shall not be set aside for any reverse deferred retirement option plan participant that are separate from all other system assets.

F. All amounts credited to a member's reverse deferred retirement option plan participation account are fully vested.

G. A member's reverse deferred retirement option plan participation account shall be credited with the following:

1. An amount that is credited as though accrued monthly from the reverse deferred retirement option plan date to the date the member elected to participate in the reverse deferred retirement option plan and that is computed in the same manner as a normal retirement benefit using the factors of credited service and average monthly salary in effect on the reverse deferred retirement option plan date.

2. An amount that is credited as though accrued monthly and that represents interest at a rate equal to the yield on a five year treasury note as of the first day of the month as published by the federal reserve board.

H. Employee and employer contributions pursuant to section 38-891 that are deposited during the period of the reverse deferred retirement option plan are not eligible to be refunded to the employer or member.

I. The participant is not entitled to receive any amount prescribed by section 38-905 or 38-906 during the reverse deferred retirement option plan participation period.

J. The form of payment shall be a lump sum distribution. If allowed by the internal revenue service, the participant may elect to transfer the lump sum distribution to an eligible retirement plan or individual retirement account.

K. The reverse deferred retirement option plan shall not jeopardize in any way the tax qualified status of the plan under the rules of the internal revenue service. The fund manager may adopt additional provisions to the extent necessary or appropriate for the reverse deferred retirement option plan to comply with applicable federal laws or rules.

1 Sec. 37. Section 38-886, Arizona Revised Statutes, is amended to read:

2 38-886. Accidental disability retirement: total and permanent
 3 disability retirement: qualification; amount of
 4 pension; conditions for continued payment of pension

5 A. A member may retire and receive an accidental disability pension or
 6 a total and permanent disability pension if the local board finds that all of
 7 the following conditions occur:

8 1. An application for disability retirement is filed with the
 9 retirement plan or the local board by either the member or the member's
 10 participating employer after the disabling incident or within one year after
 11 the date the member ceases to be an employee. Timely application for an
 12 accidental or a total and permanent disability pension is a prerequisite to
 13 receipt of the pension.

14 2. The member undergoes all medical examinations and tests ordered by
 15 the local board and releases to the local board all medical reports and
 16 records requested by the local board.

17 3. The local board determines that an accidental disability or total
 18 and permanent disability condition exists ~~which~~ THAT meets the requirements
 19 for accidental disability retirement or total and permanent disability
 20 retirement.

21 4. THE MEMBER IS NOT PARTICIPATING IN THE REVERSE DEFERRED RETIREMENT
 22 OPTION PLAN PURSUANT TO SECTION 38-885.01.

23 B. The effective date of an accidental disability retirement or a
 24 total and permanent disability retirement shall not predate the date of
 25 disability or the date the member ceases to be an employee.

26 C. The amount of an accidental disability pension or a total and
 27 permanent disability pension is equal to fifty per cent of the member's
 28 average monthly salary or the amount computed using the member's average
 29 monthly salary and the member's actual years of credited service, whichever
 30 is higher.

31 D. During the period, if any, between the effective date of accidental
 32 disability retirement or total and permanent disability retirement and the
 33 date the disabled retired member attains sixty-two years of age the local
 34 board may require a disabled retired member to undergo periodic reevaluation
 35 of the continuation of accidental disability or total and permanent
 36 disability. If the disabled retired member refuses to submit to
 37 reevaluation, the local board may suspend payment of the pension. If the
 38 refusal continues for one year, the local board may revoke the disabled
 39 retired member's rights to the pension. An accidental disability pension or
 40 a total and permanent disability pension is terminated if the local board
 41 finds the retired member no longer meets the requirements for accidental
 42 disability retirement or total and permanent disability retirement.

43 E. A member does not qualify for an accidental disability pension or a
 44 total and permanent disability pension if the local board determines that the
 45 member's disability results from any of the following:

1 1. An injury suffered while engaged in a felonious criminal act or
2 enterprise.

3 2. Service in the armed forces of the United States ~~which~~ THAT
4 entitles the member to a veteran's disability pension.

5 3. A physical or mental condition or injury that existed or occurred
6 before the member's date of membership in the plan.

7 F. Local boards ~~shall base a finding of total and permanent disability~~
8 ~~and accidental disability on medical evidence obtained by a medical doctor or~~
9 ~~clinic selected by the local board and shall disregard any other medical~~
10 ~~evidence or opinions. If the local board retains more than one medical~~
11 ~~doctor or clinic in connection with any case,~~ SHALL RETAIN A PHYSICIAN OR
12 CLINIC TO EXAMINE A MEMBER WHO APPLIES FOR AN ACCIDENTAL OR TOTAL AND
13 PERMANENT DISABILITY PENSION. THE PHYSICIAN OR CLINIC WHO IS APPOINTED BY
14 THE LOCAL BOARD SHALL OPINE AS TO WHETHER OR NOT THE MEMBER QUALIFIES FOR AN
15 ACCIDENTAL OR TOTAL AND PERMANENT DISABILITY PENSION. WITH THE APPROVAL OF
16 THE LOCAL BOARD, THE PHYSICIAN OR CLINIC MAY REFER THE MEMBER TO A SPECIALIST
17 AND MAY RELY ON THE OPINION OF THAT SPECIALIST IN RENDERING THE PHYSICIAN'S
18 OR CLINIC'S OPINION. THE PHYSICIAN OR CLINIC MAY ALSO CONSIDER ANY MEDICAL
19 EVIDENCE THAT IS PROVIDED BY THE MEMBER OR THE MEMBER'S PHYSICIAN. THE LOCAL
20 BOARD SHALL BASE A FINDING OF ACCIDENTAL DISABILITY OR TOTAL AND PERMANENT
21 DISABILITY SOLELY ON THE OPINION OF ITS APPOINTED PHYSICIAN OR CLINIC. IF
22 THE LOCAL BOARD RETAINS MORE THAN ONE PHYSICIAN OR CLINIC IN CONNECTION WITH
23 ANY APPLICATION, the local board shall resolve any material conflicts in the
24 medical evidence that is presented by the local board's ~~medical doctors~~
25 PHYSICIANS or clinics.

26 Sec. 38. Section 38-886.01, Arizona Revised Statutes, is amended to
27 read:

28 38-886.01. Ordinary disability retirement for full-time
29 dispatchers; qualifications; amount of pension;
30 conditions for continued payment of pension

31 A. Full-time dispatchers who are employed by an employer of an
32 eligible group as defined in section 38-842 may retire and receive an
33 ordinary disability pension if the local board finds that all of the
34 following conditions occur:

35 1. An application for disability retirement is filed with the
36 retirement plan or the local board by either the member or the member's
37 participating employer after the disabling incident or within one year after
38 the date the member ceases to be an employee. Timely application for an
39 ordinary disability pension is a prerequisite to receipt of the pension.

40 2. The member undergoes all medical examinations and tests ordered by
41 the local board and releases to the local board all medical reports and
42 records requested by the local board.

43 3. The local board determines that an ordinary disability condition
44 exists that meets the requirements for an ordinary disability.

1 B. The effective date of an ordinary disability retirement shall not
2 predate the date of disability or the date the member ceases to be an
3 employee.

4 C. The amount of an ordinary disability pension is equal to a fraction
5 times the member's normal retirement pension that is computed pursuant to
6 section 38-885, subsection C as if the member had twenty-five years of
7 credited service. The fraction is the result obtained by dividing the
8 member's actual years of credited service, not to exceed twenty-five years of
9 credited service, by twenty-five.

10 D. During the period, if any, between the effective date of ordinary
11 disability retirement and the date the disabled retired member attains
12 sixty-two years of age the local board may require a disabled retired member
13 to undergo periodic reevaluation of the continuation of ordinary disability.
14 If the disabled retired member refuses to submit to reevaluation, the local
15 board may suspend payment of the pension. If the refusal continues for one
16 year, the local board may revoke the disabled retired member's rights to the
17 pension. An ordinary disability pension is terminated if the local board
18 finds the retired member no longer meets the requirements for ordinary
19 disability retirement.

20 E. A member does not qualify for an ordinary disability pension if the
21 local board determines that the member's disability results from any of the
22 following:

23 1. An injury suffered while engaged in a felonious criminal act or
24 enterprise.

25 2. Service in the armed forces of the United States that entitles the
26 member to a veteran's disability pension.

27 3. A physical or mental condition or injury that existed or occurred
28 before the member's date of membership in the plan.

29 F. Local boards shall base a finding of ordinary disability on medical
30 evidence that is obtained by a medical doctor or clinic selected by the local
31 board and shall disregard any other medical evidence or opinions. If the
32 local board retains more than one medical doctor or clinic in connection with
33 the application, the local board shall resolve any material conflicts
34 presented in the medical evidence that is presented by the medical doctors or
35 clinics.

36 ~~G. For the purposes of this section, "ordinary disability" means a~~
37 ~~physical condition that the local board determines will prevent an employee~~
38 ~~from totally and permanently performing a reasonable range of duties within~~
39 ~~the employee's department or a mental condition that the local board~~
40 ~~determines will prevent an employee from totally and permanently engaging in~~
41 ~~any substantial gainful activity.~~

42 Sec. 39. Section 38-887, Arizona Revised Statutes, is amended to read:

43 38-887. Pension to surviving spouse of deceased retired member

44 ~~A.~~ The surviving spouse of a deceased retired member is entitled to
45 receive a ~~pension for life if each of the following conditions is met:~~

~~1. The retired member was married to the surviving spouse for at least two years at the time of death.~~

~~2. The surviving spouse files with the retirement plan a written application for the survivor pension.~~

~~B. The amount of pension paid a surviving spouse is equal to four-fifths of the amount of the retired member's pension at the time of death.~~ SURVIVING SPOUSE'S PENSION IF THE SPOUSE WAS MARRIED TO THE MEMBER FOR A PERIOD OF AT LEAST TWO CONSECUTIVE YEARS AT THE TIME OF THE MEMBER'S DEATH. PAYMENT OF A SURVIVING SPOUSE'S PENSION COMMENCES AS OF THE LAST DAY OF THE MONTH FOLLOWING THE RETIRED MEMBER'S DATE OF DEATH. THE LAST PAYMENT SHALL BE MADE AS OF THE LAST DAY OF THE MONTH IN WHICH THE SURVIVING SPOUSE'S DEATH OCCURS. THE AMOUNT OF PENSION PAID A SURVIVING SPOUSE IS EQUAL TO FOUR-FIFTHS OF THE AMOUNT OF THE DECEASED RETIRED MEMBER'S PENSION AT THE TIME OF DEATH. THE SURVIVING SPOUSE SHALL FILE A WRITTEN APPLICATION WITH THE PLAN IN ORDER TO RECEIVE THE SURVIVOR BENEFIT.

Sec. 40. Section 38-888, Arizona Revised Statutes, is amended to read:

38-888. Pension to the surviving spouse of a member

A. The surviving spouse of a deceased ~~active~~ member is entitled to receive a ~~pension for life if each of the following conditions is met:~~

~~1. The member was married to the surviving spouse for at least two years at the time of death.~~

~~2. The surviving spouse files a written application with the retirement plan for the survivor benefit.~~

~~B. The amount of a surviving spouse's pension is forty per cent of the deceased member's average monthly salary.~~ SURVIVING SPOUSE'S PENSION IF THE SPOUSE WAS MARRIED TO THE MEMBER ON THE DATE OF THE MEMBER'S DEATH. PAYMENT OF A SURVIVING SPOUSE'S PENSION COMMENCES AS OF THE LAST DAY OF THE MONTH FOLLOWING THE MEMBER'S DATE OF DEATH. THE LAST PAYMENT SHALL BE MADE AS OF THE LAST DAY OF THE MONTH IN WHICH THE SURVIVING SPOUSE'S DEATH OCCURS. THE AMOUNT OF A SURVIVING SPOUSE'S PENSION IS FORTY PER CENT OF THE DECEASED MEMBER'S AVERAGE MONTHLY SALARY. THE SURVIVING SPOUSE SHALL FILE A WRITTEN APPLICATION WITH THE PLAN IN ORDER TO RECEIVE THE SURVIVOR BENEFIT.

~~C. B. The surviving spouse of a deceased member who is killed in the line of duty or dies from injuries suffered in the line of duty is entitled to receive a monthly amount equal to the deceased member's average monthly benefit compensation. For the purposes of this subsection, "killed in the line of duty" means the decedent's death was the direct and proximate result of physical injuries incurred in the performance of the decedent's public safety duties and does not include suicide.~~

Sec. 41. Section 38-893, Arizona Revised Statutes, is amended to read:

38-893. Local boards; powers and duties; rules; hearings; administrative review

A. The administration of the plan and the responsibility for making the provisions of the plan effective for each employer are vested in a local board. The state department of corrections, the department of juvenile

1 corrections, each participating county sheriff's department, each
2 participating city or town, each participating employer of full-time
3 dispatchers for eligible groups as defined in section 38-842 and the
4 judiciary shall have a local board. Each local board is constituted as
5 follows:

6 1. For the state departments, two members who are elected by secret
7 ballot by members employed by that department in a designated position and
8 two citizens who are appointed by the governor. The director of each state
9 department shall appoint one member to the local board who is knowledgeable
10 in personnel actions. Each state department local board shall elect a
11 chairman.

12 2. For each participating county, the chairman of the board of
13 supervisors, or the chairman's designee who is approved by the board of
14 supervisors, as chairman, two members who are elected by secret ballot by
15 members employed by the participating county in a designated position and two
16 citizens, one of whom shall be the head of the merit system if it exists for
17 the group of members, who are appointed by the chairman of the board of
18 supervisors with the approval of the board of supervisors.

19 3. For political subdivisions, the mayor or chief elected official or
20 a designee of the mayor or chief elected official approved by the respective
21 governing body as chairman, two members elected by secret ballot by members
22 employed by the appropriate employer and two citizens, one of whom shall be
23 the head of the merit system if it exists for the group of members, appointed
24 by the mayor or chief elected official and with the approval of the city
25 council or governing body of the employer.

26 4. For the judiciary, two members who are elected by secret ballot by
27 members who are employed as a probation, surveillance or juvenile detention
28 officer, a designee of the chief justice of the Arizona supreme court and two
29 citizens, one of whom shall be the head of a human resource department for
30 the group of members, appointed by the chief justice.

31 B. The appointments and elections of local board members shall take
32 place with one elective and one appointive board member, as designated by the
33 appointing authority, serving a term ending two years after the date of
34 appointment or election and the other local board members serving a term
35 ending four years after the date of appointment or election. Thereafter,
36 every second year, and as a vacancy occurs, an office shall be filled for a
37 term of four years in the same manner as provided in this section.

38 C. Within ten days after the member's appointment or election, each
39 member of a local board shall take an oath of office that, so far as it
40 devolves on the member, the member shall diligently and honestly administer
41 the affairs of the local board and shall not knowingly violate or willingly
42 permit to be violated any of the provisions of law applicable to the plan.

43 D. Except as limited by subsection E of this section, a local board
44 shall:

1 1. Decide all questions of eligibility and service credits and
2 determine the amount, manner and time of payment of any benefit under the
3 plan.

4 2. Make a determination as to the right of a claimant to a benefit and
5 afford a claimant or the fund manager, or both, a right to a rehearing on the
6 original determination.

7 3. Request and receive from the employers and from members information
8 as is necessary for the proper administration of the plan and action on
9 claims for benefits and forward the information to the fund manager.

10 4. Distribute, in the manner the local board determines to be
11 appropriate, information explaining the plan that is received from the fund
12 manager.

13 5. Furnish the employer, the fund manager and the legislature, on
14 request, with annual reports with respect to the administration of the plan
15 that are reasonable and appropriate.

16 6. Appoint a medical board, which is composed of a designated
17 physician or clinic other than the employer's regular employee or
18 contractor. If required, the local board may employ other physicians to
19 report on special cases. The examining physician or clinic shall report the
20 results of examinations made to the local board, and the secretary of the
21 local board shall preserve the report as a permanent record.

22 7. Sue and be sued to effectuate the duties and responsibilities set
23 forth in this article.

24 E. A local board has no power to add to, subtract from, modify or
25 waive any of the terms of the plan, change or add to any benefits provided by
26 the plan or waive or fail to apply any requirement of eligibility for
27 membership or benefits under the plan.

28 F. A local board, ~~from time to time,~~ shall ~~establish and~~ adopt rules,
29 **POLICIES AND PROCEDURES** ~~as it deems necessary or desirable~~ for its
30 administration, **INCLUDING RULES, POLICIES AND PROCEDURES TO GOVERN THE**
31 **CONDUCT OF HEARINGS AND THE AWARD OF RETIREMENT AND DISABILITY BENEFITS.** All
32 rules, **POLICIES, PROCEDURES** and decisions of a local board shall be uniformly
33 and consistently applied to all members in similar circumstances.

34 G. An action by a majority vote of the members of a local board that
35 is not inconsistent with the provisions of the plan is final, conclusive and
36 binding on all persons affected by it, unless a timely application for a
37 rehearing or appeal is filed as provided in this article.

38 H. A claimant or the fund manager may apply for a rehearing before the
39 local board within the time period prescribed in this subsection. A claimant
40 or the fund manager shall file an application for rehearing in writing with a
41 member of the local board or its secretary within sixty days after:

42 1. The claimant receives notification of the local board's original
43 action by certified mail, by attending the meeting at which the action is
44 taken or by receiving benefits from the plan pursuant to the local board's
45 original action, whichever occurs first.

1 2. The fund manager receives notification of the local board's
2 original action by certified mail or by receipt of written directions from
3 the local board pursuant to its original action, whichever occurs first.

4 I. A hearing before a local board on a matter remanded from the
5 superior court is not subject to a rehearing before the local board.

6 J. Decisions of local boards are subject to judicial review pursuant
7 to title 12, chapter 7, article 6.

8 K. When making a ruling, determination or calculation, the local board
9 is entitled to rely on information furnished by the employer, the fund
10 manager, independent legal counsel or the actuary for the plan.

11 L. Each member of a local board is entitled to one vote. A majority
12 of the appointed and elected members is necessary for a decision by the
13 members of a local board at any meeting of the local board.

14 M. The local board shall adopt bylaws as it deems necessary. The
15 local board shall elect a secretary who may, but need not, be a member of the
16 local board. The secretary of the local board shall keep a record and
17 prepare minutes of all meetings, forward the minutes to the fund manager
18 within forty-five days after each meeting and forward all necessary
19 communications to the fund manager.

20 N. The employer shall pay the fees of the medical board and of the
21 local board's legal counsel and all other expenses of the local board
22 necessary for the administration of the plan, **INCLUDING ANY LEGAL FEES THAT**
23 **ARE INCURRED IN CONNECTION WITH AN APPEAL OF THE LOCAL BOARD'S DECISION,** at
24 rates and in amounts as the local board approves.

25 O. The local board shall issue directions to the fund manager
26 concerning all benefits that are to be paid from the employer's account
27 pursuant to the provisions of the fund. The local board shall keep on file,
28 in the manner it deems convenient and proper, all reports from the fund
29 manager and the actuary.

30 P. The local board and the individual members of the local board are
31 indemnified from the assets of the fund against any liability arising by
32 reason of any act, or failure to act, made in good faith pursuant to the
33 provisions of the plan.

34 Sec. 42. Section 38-902, Arizona Revised Statutes, is amended to read:

35 38-902. Joinder agreement

36 A. County detention officers and nonuniformed employees of a sheriff's
37 department whose primary duties require direct contact with inmates may
38 participate in this plan if the board of supervisors of the county enters
39 into a joinder agreement with the fund manager to bring such employees into
40 this plan. The joinder agreement shall be in accordance with the provisions
41 of this plan. All such employees shall be designated for membership in the
42 joinder agreement unless written consent to the contrary is obtained from the
43 fund manager.

44 B. City or town detention officers may participate in this plan if the
45 governing body of the city or town enters into a joinder agreement with the

1 fund manager to bring its detention officers into this plan. The joinder
2 agreement shall be in accordance with the provisions of the plan. The
3 governing body of the city or town shall designate all detention officers for
4 membership in the plan unless written consent to the contrary is obtained
5 from the fund manager.

6 C. Full-time dispatchers may participate in this plan if the governing
7 body or agency of the employer of an eligible group as defined in
8 section 38-842 enters into a joinder agreement with the fund manager to bring
9 its full-time dispatchers into this plan. The joinder agreement shall be in
10 accordance with the provisions of this plan. The governing body or agency of
11 the employer shall designate all full-time dispatchers for membership in the
12 plan except for a full-time dispatcher who signs an irrevocable agreement
13 before the joinder agreement becomes effective electing not to become a
14 member of the plan. A full-time dispatcher employed by an employer who
15 becomes eligible for membership in the plan pursuant to this section may
16 elect to participate in the plan within the deadlines and pursuant to the
17 terms prescribed for such participation by the fund manager.

18 D. Probation, surveillance and juvenile detention officers may
19 participate in this plan if the administrative office of the courts enters
20 into a joinder agreement with the fund manager to bring its probation,
21 surveillance and juvenile detention officers into this plan. The joinder
22 agreement shall be in accordance with the provisions of this plan. The
23 administrative office of the courts shall designate all probation,
24 surveillance and juvenile detention officers for membership in this plan
25 unless written consent to the contrary is obtained from the fund manager.

26 E. FULL-TIME DISPATCHERS OR DETENTION OFFICERS EMPLOYED BY AN INDIAN
27 TRIBE MAY PARTICIPATE IN THIS PLAN IF THE INDIAN TRIBE ENTERS INTO A JOINDER
28 AGREEMENT WITH THE FUND MANAGER TO BRING ITS DISPATCHERS OR DETENTION
29 OFFICERS INTO THIS PLAN. BEFORE THE INDIAN TRIBE JOINS THE PLAN, IT MUST
30 FILE A CERTIFIED COPY OF A RESOLUTION APPROVING THE JOINDER WITH THE FUND
31 MANAGER AND ALSO REQUEST A PRELIMINARY ACTUARIAL SURVEY TO DETERMINE THE
32 ESTIMATED COST OF PARTICIPATION, THE BENEFITS TO BE DERIVED AND OTHER
33 INFORMATION DEEMED APPROPRIATE. THE COST OF THE SURVEY SHALL BE PAID BY THE
34 INDIAN TRIBE. AS A CONDITION TO PARTICIPATION IN THE PLAN AN INDIAN TRIBE
35 EMPLOYER, BY RESOLUTION OF THE GOVERNING BODY, SHALL:

36 1. AGREE THAT ALL DISPUTES INVOLVING INTERPRETATION OF STATE STATUTES
37 INVOLVING THE PLAN, AND ANY AMENDMENTS TO THOSE STATUTES, WILL BE RESOLVED
38 THROUGH THE COURT SYSTEM OF THIS STATE.

39 2. AGREE TO BE BOUND BY STATE STATUTES AND LAWS THAT REGULATE AND
40 INTERPRET THE PROVISIONS OF THE PLAN, INCLUDING ELIGIBILITY FOR MEMBERSHIP IN
41 THE PLAN, SERVICE CREDITS AND THE RIGHTS OF ANY CLAIMANT TO BENEFITS AND THE
42 AMOUNT OF THOSE BENEFITS.

43 3. AGREE TO MEET ANY REQUIREMENT THAT THE FUND MANAGER MAY PRESCRIBE
44 TO ENSURE TIMELY PAYMENT OF MEMBER AND EMPLOYER CONTRIBUTIONS AND ANY OTHER
45 AMOUNTS DUE FROM THE EMPLOYER TO THE PLAN.

1 4. INCLUDE IN THE JOINDER AGREEMENT ANY OTHER PROVISION DEEMED
2 NECESSARY BY THE FUND MANAGER FOR THE ADMINISTRATION OR ENFORCEMENT OF THE
3 AGREEMENT

4 ~~F.~~ F. The new employer shall designate the groups of employees who
5 are eligible to participate in the plan and shall agree to make contributions
6 each year that are sufficient to meet both the normal cost of a level cost
7 method attributable to inclusion of its employees and the PAST SERVICE COST
8 OF ITS EMPLOYEES, TOGETHER WITH ANY prescribed interest on the past service
9 cost for its employees.

10 ~~F.~~ G. Before the execution of any joinder agreement each employer
11 contemplating participation in the plan shall have an actuarial valuation
12 made, which is payable by the employer, to determine the estimated cost of
13 participation in accordance with section 38-894.

14 ~~G.~~ H. Assets under any existing public employee defined benefit
15 retirement program, except a military retirement program, that are necessary
16 to equal the actuarial present value of projected benefits to the extent
17 funded on a market value basis as of the most recent actuarial valuation
18 attributable to the employer's designated employee group, calculated using
19 the actuarial methods and assumptions adopted by the existing public employee
20 retirement program, shall be transferred from the program to this fund no
21 later than sixty days after the employer's effective date. That portion of
22 the transferred assets that is attributable to employee contributions,
23 including interest credits, shall be properly allocated to each affected
24 employee of the employer and credited to the employee's initial accumulated
25 contributions in accordance with a schedule furnished by the employer to the
26 fund manager.

27 I. IF AN EMPLOYER HAS PAID ASSETS INTO THE PLAN PURSUANT TO A JOINDER
28 AGREEMENT AND NO LONGER HAS ELIGIBLE EMPLOYEES PARTICIPATING IN THE PLAN, ANY
29 SURPLUS MONIES DEPOSITED INTO THE PLAN REVERT TO THE PLAN.

30 Sec. 43. Section 38-906, Arizona Revised Statutes, is amended to read:

31 38-906. Group health and accident coverage for retired members;
32 payment; definition

33 A. The fund manager shall pay from the assets of the fund part of the
34 single coverage premium of any group health and accident insurance for each
35 retired member or survivor of the plan who receives a pension and who has
36 elected to participate in coverage provided by section 38-651.01 or 38-782 or
37 any other health and accident insurance coverage provided or administered by
38 a participating employer in the plan. The fund manager shall pay up to:

39 1. One hundred fifty dollars per month, OR THE ACTUAL COST OF THE
40 MONTHLY INSURANCE PREMIUM, WHICHEVER IS LESS, for each retired member or
41 survivor of the plan who is not eligible for medicare.

42 2. One hundred dollars per month, OR THE ACTUAL COST OF THE MONTHLY
43 INSURANCE PREMIUM, WHICHEVER IS LESS, for each retired member or survivor of
44 the plan who is eligible for medicare.

1 B. The fund manager shall pay from the assets of the fund part of the
2 family coverage premium of any group health and accident insurance for each
3 retired member or survivor of the plan who elects family coverage and who
4 otherwise qualifies for payment pursuant to subsection A of this section.
5 Payment under this subsection is in the following amounts:

6 1. Up to two hundred sixty dollars per month, OR THE ACTUAL COST OF
7 THE MONTHLY INSURANCE PREMIUM, WHICHEVER IS LESS, if the retired member or
8 survivor of the plan and one or more dependents are not eligible for
9 medicare.

10 2. Up to one hundred seventy dollars per month, OR THE ACTUAL COST OF
11 THE MONTHLY INSURANCE PREMIUM, WHICHEVER IS LESS, if the retired member or
12 survivor of the plan and one or more dependents are eligible for medicare.

13 3. Up to two hundred fifteen dollars per month, OR THE ACTUAL COST OF
14 THE MONTHLY INSURANCE PREMIUM, WHICHEVER IS LESS, if either:

15 (a) The retired member or survivor of the plan is not eligible for
16 medicare and one or more dependents are eligible for medicare.

17 (b) The retired member or survivor of the plan is eligible for
18 medicare and one or more dependents are not eligible for medicare.

19 C. The fund manager shall not pay more than the amount prescribed in
20 this section for a benefit recipient as a RETIRED member or survivor of the
21 plan.

22 ~~D. In addition to the payments provided by subsection A of this~~
23 ~~section, through June 30, 2005, the fund manager shall pay an insurance~~
24 ~~premium benefit for medical coverage, not including limited benefit coverage~~
25 ~~as defined in section 20-1137, for each retired member or survivor of the~~
26 ~~plan who is entitled to a premium benefit payment pursuant to subsection A of~~
27 ~~this section and who lives in a nonservice area as follows:~~

28 ~~1. Up to three hundred dollars per month for a retired member or~~
29 ~~survivor of the plan who is not eligible for medicare. To qualify for this~~
30 ~~additional benefit, a retired member or survivor shall pay out of pocket~~
31 ~~medical insurance premiums of at least one hundred twenty five dollars per~~
32 ~~month.~~

33 ~~2. Up to one hundred seventy dollars per month for a retired member or~~
34 ~~survivor of the plan who is eligible for medicare. To qualify for this~~
35 ~~additional benefit, a retired member or survivor shall pay out of pocket~~
36 ~~medical insurance premiums of at least one hundred dollars per month.~~

37 ~~E. In addition to the payments provided by subsection B of this~~
38 ~~section, through June 30, 2005, the fund manager shall pay an insurance~~
39 ~~premium benefit for medical coverage, not including limited benefit coverage~~
40 ~~as defined in section 20-1137, for a retired member or survivor of the plan~~
41 ~~who is entitled to a premium benefit payment pursuant to subsection B of this~~
42 ~~section, who is enrolled in a family medical plan and who lives in a~~
43 ~~nonservice area as follows:~~

44 ~~1. Up to six hundred dollars per month if the retired member or~~
45 ~~survivor of the plan and one or more dependents are not eligible for~~

~~medicare. To qualify for this additional benefit, a retired member or survivor shall pay out of pocket medical insurance premiums of at least four hundred twenty five dollars per month.~~

~~2. Up to three hundred fifty dollars per month if the retired member or survivor of the plan and one or more dependents are eligible for medicare. To qualify for this additional benefit, a retired member or survivor shall pay out of pocket medical insurance premiums of at least two hundred dollars per month.~~

~~3. Up to four hundred seventy dollars per month if either:~~

~~(a) The retired member or survivor of the plan is not eligible for medicare and one or more dependents are eligible for medicare.~~

~~(b) The retired member or survivor of the plan is eligible for medicare and one or more dependents are not eligible for medicare.~~

~~To qualify for this additional benefit, a retired member or survivor shall pay out of pocket medical insurance premiums of at least four hundred dollars per month.~~

~~F.~~ D. In addition to the payments provided by subsection A of this section, beginning July 1, 2005 through June 30, 2007, the fund manager shall pay an insurance premium benefit for medical coverage, not including limited benefit coverage as defined in section 20-1137, for each medicare eligible retired member or survivor of the plan who is entitled to a premium benefit payment pursuant to subsection A of this section and who lives in a nonservice area of up to one hundred seventy dollars per month for a retired member or survivor of the plan who is eligible for medicare. To qualify for this additional benefit, a retired member or survivor shall pay out-of-pocket medical insurance premiums of at least one hundred dollars per month.

~~G.~~ E. In addition to the payments provided by subsection B of this section, beginning July 1, 2005 through June 30, 2007, the fund manager shall pay an insurance premium benefit for medical coverage, not including limited benefit coverage as defined in section 20-1137, for a medicare eligible retired member or survivor of the plan who is entitled to a premium benefit payment pursuant to subsection B of this section, who is enrolled in a family medical plan and who lives in a nonservice area as follows:

1. Up to three hundred fifty dollars per month if the retired member or survivor of the plan and one or more dependents are eligible for medicare. To qualify for this additional benefit, a retired member or survivor shall pay out-of-pocket medical insurance premiums of at least two hundred dollars per month.

2. Up to four hundred seventy dollars per month if the retired member or survivor of the plan is eligible for medicare and one or more dependents are not eligible for medicare. To qualify for this additional benefit, a retired member or survivor shall pay out-of-pocket medical insurance premiums of at least four hundred dollars per month.

~~H.~~ F. A retired member or survivor of the plan who is enrolled in a managed care program in a nonservice area is not eligible for the payment

1 prescribed in subsection D, ~~OR E, F or G~~ of this section ~~if the member~~
 2 ~~terminates coverage under the managed care program.~~

3 ~~I.~~ G. A retired member or survivor of the plan may elect to purchase
 4 individual health care coverage and receive a payment pursuant to this
 5 section through the retired member's employer if that employer assumes the
 6 administrative functions associated with the payment, including verification
 7 that the payment is used to pay for health insurance coverage if the payment
 8 is made to the retired member or survivor of the plan.

9 H. THIS SECTION DOES NOT APPLY TO A RETIRED MEMBER OR SURVIVOR OF THE
 10 PLAN WHO IS REEMPLOYED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE
 11 AND WHO PARTICIPATES IN COVERAGE PROVIDED BY THIS STATE OR A POLITICAL
 12 SUBDIVISION OF THIS STATE AS A CURRENT EMPLOYEE. THOSE RETIRED MEMBERS OR
 13 SURVIVORS WHO ARE REEMPLOYED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS
 14 STATE AND WHO ARE CURRENTLY RECEIVING THE SUBSIDY PROVIDED BY THIS SECTION ON
 15 THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION MAY CONTINUE TO RECEIVE
 16 THE SUBSIDY AS LONG AS THE RETIRED MEMBER OR SURVIVOR CONTINUES EMPLOYMENT
 17 WITH THE SAME STATE AGENCY OR POLITICAL SUBDIVISION. ON TERMINATION OF SUCH
 18 EMPLOYMENT OR ON TRANSFER TO ANOTHER STATE AGENCY OR POLITICAL SUBDIVISION,
 19 THE FUND MANAGER SHALL DISCONTINUE THE PAYMENTS PROVIDED BY THIS SECTION,
 20 UNLESS THE RETIRED MEMBER OR SURVIVOR AGAIN BECOMES QUALIFIED TO RECEIVE A
 21 SUBSIDY PURSUANT TO THIS SECTION.

22 ~~J.~~ I. For the purposes of this section, "nonservice area" means an
 23 area in this state in which the Arizona state retirement system pursuant to
 24 section 38-782, the department of administration pursuant to section
 25 38-651.01 or the member's or survivor's participating employer does not
 26 provide or administer a health care services organization program, excluding
 27 any preferred provider organization program or individual health indemnity
 28 policy, for which the retired member or survivor of the plan is eligible.

29 Sec. 44. Section 38-907, Arizona Revised Statutes, is amended to read:

30 38-907. Credited service for military service; national guard
 31 or reserve members; payment of contributions during
 32 active military service

33 A. A member of the plan may receive credited service for PERIODS OF
 34 active military service PERFORMED BEFORE EMPLOYMENT WITH THE MEMBER'S CURRENT
 35 PARTICIPATING EMPLOYER if:

- 36 1. The member was honorably separated from the military service.
- 37 2. The period of military service for which the member receives
 38 credited service does not exceed forty-eight months.
- 39 3. The period of military service for which the member receives
 40 credited service is not on account with any other retirement system, EXCEPT
 41 AS PROVIDED BY 10 UNITED STATES CODE SECTION 12736.

42 4. THE MEMBER PAYS THE COST TO PURCHASE THE PRIOR ACTIVE MILITARY
 43 SERVICE. THE COST IS THE AMOUNT NECESSARY TO EQUAL THE INCREASE IN THE
 44 ACTUARIAL PRESENT VALUE OF PROJECTED BENEFITS RESULTING FROM THE CREDIT USING
 45 THE ACTUARIAL METHODS AND ASSUMPTIONS ADOPTED BY THE PLAN'S ACTUARY.

~~B. Except as provided in subsection C, the cost to the member to purchase military credited service pursuant to this section is the amount necessary to equal the increase in the actuarial present value of projected benefits resulting from the credit.~~

~~C. For a period of time of active military service but for not more than forty eight months an employer shall make employer contributions and member contributions for a person who was an active member of the plan on the day before he began active military service, who satisfies the requirements of subsection A, paragraph 3 and who meets the following requirements:~~

B. EXCEPT AS REQUIRED BY THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (38 UNITED STATES CODE SECTION 4312(c)), A MEMBER OF THE PLAN MAY RECEIVE CREDITED SERVICE FOR NOT MORE THAN SIXTY MONTHS OF MILITARY SERVICE WHILE EMPLOYED BY THE MEMBER'S CURRENT PARTICIPATING EMPLOYER IF:

1. THE MEMBER is a member of the Arizona national guard or is a member of the reserves of any military establishment of the United States.

~~2. Volunteers or is ordered into active military service of the United States as part of a presidential call-up.~~

2. THE MEMBER WAS A MEMBER OF THE PLAN ON THE DAY BEFORE THE MEMBER BEGAN MILITARY SERVICE.

3. THE PERIOD OF MILITARY SERVICE FOR WHICH THE MEMBER RECEIVES CREDITED SERVICE IS NOT ON ACCOUNT WITH ANY OTHER RETIREMENT SYSTEM, EXCEPT AS PROVIDED BY 10 UNITED STATES CODE SECTION 12736.

~~3.~~ 4. THE MEMBER is honorably separated from ~~active~~ military service and returns to employment for the same employer from which ~~he~~ THE MEMBER left for ~~active~~ military service within ninety days after the date ~~active~~ military service is terminated or is hospitalized as a result of military service and returns to employment for the same employer from which ~~he~~ THE MEMBER left for ~~active~~ military service within ninety days after release from service related hospitalization or dies as a result of the military service.

C. FOR PERIODS OF TIME OF ACTIVE MILITARY SERVICE DUE TO A PRESIDENTIAL CALL-UP, NOT TO EXCEED FORTY-EIGHT MONTHS, AN EMPLOYER SHALL MAKE EMPLOYER AND MEMBER CONTRIBUTIONS PURSUANT TO SUBSECTION G.

D. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, FOR PERIODS OF TIME OF ACTIVE MILITARY SERVICE DUE TO A PRESIDENTIAL CALL-UP IN EXCESS OF FORTY-EIGHT MONTHS, AND FOR ALL OTHER PERIODS OF MILITARY SERVICE, AN EMPLOYER SHALL MAKE EMPLOYER CONTRIBUTIONS AND THE MEMBER SHALL MAKE MEMBER CONTRIBUTIONS. THE EMPLOYER MAY ELECT TO MAKE BOTH THE EMPLOYER AND THE MEMBER CONTRIBUTIONS CORRESPONDING TO PERIODS OF MILITARY SERVICE BEING PURCHASED PURSUANT TO THIS SECTION EXCEPT AS PROHIBITED BY LAW.

~~D.~~ E. Contributions made pursuant to subsection C OR D shall be for the period of time beginning on the date the member began ~~active~~ military service and ending on one of the following dates:

1. The date the member is separated from ~~active~~ military service.

1 2. The date the member is released from service related
2 hospitalization or one year after initiation of service related
3 hospitalization, whichever date is earlier.

4 3. The date the member dies as a result of ~~active~~ military service.
5 ~~E.~~ F. Notwithstanding any other law, on payment of the contributions
6 made pursuant to subsection C OR D, the member shall be credited with service
7 for retirement purposes for the period of time of ~~active~~ military service of
8 not more than ~~forty-eight~~ SIXTY months.

9 ~~F.~~ G. FOR PERIODS OF ACTIVE MILITARY SERVICE DUE TO A PRESIDENTIAL
10 CALL-UP, the employer shall make contributions pursuant to subsection C OR D
11 based on the salary being received by the member immediately before the
12 member volunteered or was ordered into active military service in a lump sum
13 and without penalty when the member returns to employment or on receipt of
14 the member's death certificate. If a member suffers a ~~MILITARY~~ service
15 related death, the employer shall make the employer and member contributions
16 up to and including the date of the employee member's death. Death benefits
17 shall be calculated as prescribed by law. FOR ALL OTHER PERIODS OF MILITARY
18 SERVICE, THE MEMBER HAS UP TO THREE TIMES THE PERIOD OF MILITARY SERVICE, UP
19 TO A MAXIMUM OF FIVE YEARS, TO MAKE MEMBER CONTRIBUTIONS PURSUANT TO
20 SUBSECTION D BASED ON THE SALARY BEING RECEIVED BY THE MEMBER IMMEDIATELY
21 BEFORE THE MEMBER'S MILITARY SERVICE. ONCE THE MEMBER MAKES THE MEMBER
22 CONTRIBUTIONS, THE EMPLOYER SHALL PAY THE EMPLOYER CONTRIBUTIONS.

23 ~~G.~~ H. Service credits for ~~active~~ military service shall not be
24 applied to the member's account until such time as complete payment as
25 determined in ~~either subsection B or C~~ THIS SECTION is made to the retirement
26 plan.

27 ~~H.~~ I. ~~A member~~ AN APPLICANT shall submit a copy of the military
28 discharge certificate (DD-256A) and a copy of the military service record
29 (DD-214) or its equivalent with ~~his~~ THE application when applying for
30 ~~credited service for active~~ THE military service CREDIT, except that members
31 of the Arizona national guard and military reserves ordered into active
32 military service as part of a presidential call-up are only required to
33 submit a copy of the military service record (DD-214) or its equivalent.

34 ~~I.~~ J. Notwithstanding any other law, the member is not required to
35 reimburse ~~his~~ THE MEMBER'S employer or the plan for any EMPLOYER contribution
36 made pursuant to subsection C.

37 Sec. 45. Section 38-909, Arizona Revised Statutes, is amended to read:
38 38-909. Redemption of prior service; calculation

39 A. Each present active member of the plan who had previous service in
40 this state as an employee with an employer now covered by the plan or who had
41 previous service with an agency of the United States government, a state of
42 the United States or a political subdivision of a state of the United States
43 as a full-time paid corrections officer or full-time paid certified peace
44 officer may elect to redeem any part of the prior service by paying into the

1 plan any amounts required under subsection B if the prior service is not on
2 account with any other retirement system.

3 B. Any present active member who elects to redeem any part of the
4 prior service for which the employee is deemed eligible by the fund manager
5 under ~~this section~~ SUBSECTION A shall pay into the plan the amounts
6 previously withdrawn by the member, if any, as a refund of the member's
7 accumulated contributions plus accumulated interest as determined by the fund
8 manager and the additional amount, if any, computed by the plan's actuary
9 that is necessary to equal the increase in the actuarial present value of
10 projected benefits resulting from the redemption calculated using the
11 actuarial methods and assumptions prescribed by the plan's actuary.

12 C. ANY PRESENT ACTIVE MEMBER WITH AT LEAST FIVE YEARS OF CREDITED
13 SERVICE ON ACCOUNT WITH THE PLAN MAY PURCHASE A MAXIMUM OF FIVE YEARS OF
14 CREDITED SERVICE CORRESPONDING TO EITHER:

15 1. PERIODS OF TIME DURING WHICH THE MEMBER WAS ON LEAVE WITHOUT PAY
16 WITH A PARTICIPATING EMPLOYER.

17 2. PERIODS OF NONQUALIFIED SERVICE AS DEFINED BY INTERNAL REVENUE CODE
18 SECTION 415(n)(3)(C) IF THE PERIODS OF SERVICE ARE NOT ON ACCOUNT WITH ANY
19 OTHER RETIREMENT SYSTEM.

20 ~~C.~~ D. The discount rate used by the actuary for the redemption
21 calculation pursuant to subsection B OR C is an amount equal to the lesser of
22 the assumed rate of return that is prescribed by the fund manager or an
23 amount equal to the yield on a ten year treasury note as of March 1 that is
24 published by the federal reserve board plus two per cent. This discount rate
25 is effective beginning in the next fiscal year and shall be recalculated each
26 year.

27 Sec. 46. Title 38, chapter 5, article 6, Arizona Revised Statutes, is
28 amended by adding sections 38-910 and 38-911, to read:

29 38-910. Deferred annuity

30 IF ANY MEMBER WHO HAS AT LEAST TEN YEARS OF CREDITED SERVICE TERMINATES
31 EMPLOYMENT FOR REASONS OTHER THAN RETIREMENT OR DISABILITY, THE PERSON MAY
32 ELECT TO RECEIVE A DEFERRED ANNUITY, EXCEPT THAT IF THE PERSON WITHDRAWS THE
33 PERSON'S ACCUMULATED CONTRIBUTIONS FROM THE PLAN, ALL RIGHTS TO A DEFERRED
34 ANNUITY ARE FORFEITED. A DEFERRED ANNUITY IS A LIFETIME MONTHLY PAYMENT THAT
35 IS ACTUARIALLY EQUIVALENT TO THE ANNUITANT'S ACCUMULATED CONTRIBUTIONS IN THE
36 PLAN PLUS AN EQUAL AMOUNT PAID BY THE EMPLOYER AND COMMENCES ON APPLICATION
37 ON OR AFTER THE SIXTY-SECOND BIRTHDAY OF THE ANNUITANT. THE DEFERRED ANNUITY
38 IS NOT A RETIREMENT BENEFIT AND ANNUITANTS ARE NOT ENTITLED TO RECEIVE ANY
39 AMOUNT PRESCRIBED BY SECTION 38-887, 38-888, 38-904, 38-905 OR 38-906.

40 38-911. Civil liability; restitution or payment of fine;
41 violation; classification; offset of benefits

42 A. A PERSON WHO DEFRAUDS THE PLAN OR WHO TAKES, CONVERTS, STEALS OR
43 EMBEZZLES MONIES OWNED BY OR FROM THE PLAN AND WHO FAILS OR REFUSES TO RETURN
44 THE MONIES TO THE PLAN ON THE FUND MANAGER'S WRITTEN REQUEST IS SUBJECT TO
45 CIVIL SUIT BY THE PLAN IN THE SUPERIOR COURT IN MARICOPA COUNTY. ON ENTRY OF

1 AN ORDER FINDING THE PERSON HAS DEFRAUDED THE PLAN OR TAKEN, CONVERTED,
 2 STOLEN OR EMBEZZLED MONIES OWNED BY OR FROM THE PLAN, THE COURT SHALL ENTER
 3 AN ORDER AGAINST THAT PERSON AND FOR THE PLAN AWARDING THE PLAN ALL OF ITS
 4 COSTS AND EXPENSES OF ANY KIND, INCLUDING ATTORNEY FEES, THAT WERE NECESSARY
 5 TO SUCCESSFULLY PROSECUTE THE ACTION. THE COURT SHALL ALSO GRANT THE PLAN A
 6 JUDICIAL LIEN ON ALL OF THE NONEXEMPT PROPERTY OF THE PERSON AGAINST WHOM
 7 JUDGMENT IS ENTERED PURSUANT TO THIS SUBSECTION IN AN AMOUNT EQUAL TO ALL
 8 AMOUNTS AWARDED TO THE PLAN, PLUS INTEREST AT THE RATE PRESCRIBED BY SECTION
 9 44-1201, SUBSECTION A, UNTIL ALL AMOUNTS OWED ARE PAID TO THE PLAN.

10 B. IF A MEMBER IS CONVICTED OF, OR DISCHARGED BECAUSE OF, THEFT,
 11 EMBEZZLEMENT, FRAUD OR MISAPPROPRIATION OF AN EMPLOYER'S PROPERTY OR PROPERTY
 12 UNDER THE CONTROL OF THE EMPLOYER, THE MEMBER IS SUBJECT TO RESTITUTION AND
 13 FINES IMPOSED BY A COURT OF COMPETENT JURISDICTION. THE COURT MAY ORDER THE
 14 RESTITUTION OR FINES TO BE PAID FROM ANY PAYMENTS OTHERWISE PAYABLE TO THE
 15 MEMBER FROM THE PLAN.

16 C. A PERSON WHO KNOWINGLY MAKES ANY FALSE STATEMENT OR WHO FALSIFIES
 17 OR PERMITS TO BE FALSIFIED ANY RECORD OF THE PLAN WITH AN INTENT TO DEFRAUD
 18 THE PLAN IS GUILTY OF A CLASS 6 FELONY. IF ANY CHANGE OR ERROR IN THE
 19 RECORDS RESULTS IN ANY MEMBER OR BENEFICIARY RECEIVING FROM THE PLAN MORE OR
 20 LESS THAN THE MEMBER OR BENEFICIARY WOULD HAVE BEEN ENTITLED TO RECEIVE HAD
 21 THE RECORDS BEEN CORRECT, THE LOCAL BOARD SHALL CORRECT THE ERROR, AND AS FAR
 22 AS PRACTICABLE SHALL ADJUST THE PAYMENTS IN SUCH MANNER THAT THE ACTUARIAL
 23 EQUIVALENT OF THE BENEFIT TO WHICH THE MEMBER OR BENEFICIARY WAS CORRECTLY
 24 ENTITLED SHALL BE PAID. IF A MEMBER IS CONVICTED OF A CRIME PURSUANT TO THIS
 25 SUBSECTION THE MEMBER IS ENTITLED TO RECEIVE A LUMP SUM PAYMENT OF THE
 26 MEMBER'S ACCUMULATED CONTRIBUTIONS BUT FORFEITS ANY FUTURE COMPENSATION AND
 27 BENEFITS THAT WOULD OTHERWISE ACCRUE TO THE MEMBER OR THE MEMBER'S ESTATE
 28 UNDER THIS ARTICLE.

29 D. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE FUND
 30 MANAGER MAY OFFSET AGAINST ANY BENEFITS OTHERWISE PAYABLE BY THE PLAN TO A
 31 MEMBER OR SURVIVOR ANY COURT ORDERED AMOUNTS AWARDED TO THE FUND MANAGER AND
 32 PLAN AND ASSESSED AGAINST THE MEMBER OR SURVIVOR.

33 Sec. 47. Section 41-192, Arizona Revised Statutes, is amended to read:

34 41-192. Powers and duties of attorney general; restrictions on
 35 state agencies as to legal counsel; exceptions

36 A. The attorney general shall have charge of and direct the department
 37 of law and shall serve as chief legal officer of the state. The attorney
 38 general shall:

39 1. Be the legal advisor of the departments of this state and render
 40 such legal services as the departments require.

41 2. Establish administrative and operational policies and procedures
 42 within ~~his~~ THE department.

43 3. Approve long-range plans for developing departmental programs
 44 therein, and coordinate the legal services required by other departments of
 45 this state or other state agencies.

1 4. Represent school districts and governing boards of school districts
2 in any lawsuit involving a conflict of interest with other county offices.

3 5. Represent political subdivisions, school districts and
4 municipalities in suits to enforce state or federal statutes pertaining to
5 antitrust, restraint of trade or price-fixing activities or conspiracies,
6 ~~provided that~~ IF the attorney general ~~shall notify~~ NOTIFIES in writing ~~such~~
7 THE political subdivisions, school districts and municipalities of the
8 attorney general's intention to bring any such action on its behalf. At any
9 time within thirty days after ~~such~~ notification, ~~such~~ THE political
10 subdivisions, school districts and municipalities ~~may~~, by formal resolution
11 of its governing body, MAY withdraw the authority of the attorney general to
12 bring the intended action on its behalf.

13 6. In any action brought by the attorney general pursuant to state or
14 federal statutes pertaining to antitrust, restraint of trade, or price-fixing
15 activities or conspiracies for the recovery of damages by this state or any
16 of its political subdivisions, school districts or municipalities, in
17 addition to the attorney general's other powers and authority, the attorney
18 general on behalf of this state may enter into contracts relating to the
19 investigation and prosecution of such action with any other party plaintiff
20 who has brought a similar action for the recovery of damages and with whom
21 the attorney general finds it advantageous to act jointly or to share common
22 expenses or to cooperate in any manner relative to such action. In any such
23 action, notwithstanding any other laws to the contrary, the attorney general
24 may undertake, among other things, to render legal services as special
25 counsel or to obtain the legal services of special counsel from any
26 department or agency of the United States, of this state or any other state
27 or any department or agency thereof or any county, city, public corporation
28 or public district in this state or in any other state that has brought or
29 intends to bring a similar action for the recovery of damages or their duly
30 authorized legal representatives in such action.

31 7. Organize the civil rights division within the department of law and
32 administer such division pursuant to the powers and duties provided in
33 chapter 9 of this title.

34 8. Compile, publish and distribute to all state agencies, departments,
35 boards, commissions and councils, and to other persons and government
36 entities on request, at least every ten years, the Arizona agency handbook
37 that sets forth and explains the major state laws that govern state agencies,
38 including information on the laws relating to bribery, conflicts of interest,
39 contracting with the government, disclosure of public information,
40 discrimination, nepotism, financial disclosure, gifts and extra compensation,
41 incompatible employment, political activity by employees, public access and
42 misuse of public resources for personal gain. A supplement to the handbook
43 reflecting revisions to the information contained in the handbook shall be
44 compiled and distributed by the attorney general as deemed necessary.

45 B. Except as otherwise provided by law, the attorney general may:

1 1. Organize the department into such bureaus, subdivisions or units as
2 ~~he~~ **THE ATTORNEY GENERAL** deems most efficient and economical, and consolidate
3 or abolish them.

4 2. Adopt rules for the orderly conduct of the business of the
5 department.

6 3. Employ and assign assistant attorneys general and other employees
7 necessary to perform the functions of the department.

8 4. Compromise or settle any action or claim by or against this state
9 or any department, board or agency thereof. ~~Where such~~ **IF THE** compromise or
10 settlement involves a particular department, board or agency of this state,
11 the compromise or settlement shall be first approved by ~~such~~ **THE** department,
12 board or agency. ~~Where~~ **IF** no department or agency is named or otherwise
13 materially involved, the approval of the governor shall be first obtained.

14 5. Charge reasonable fees for distributing official publications,
15 including attorney general legal opinions and the Arizona agency handbook.
16 The fees received shall be transmitted to the state treasurer for deposit in
17 the state general fund.

18 C. Assistants and employees in any legal division subject to a merit
19 system prior to March 6, 1953 shall remain subject thereto.

20 D. The powers and duties of a bureau, subdivision or unit shall be
21 limited to those assigned by law to the department.

22 E. Notwithstanding any law to the contrary, except as provided in
23 subsections F and G of this section, no state agency other than the attorney
24 general shall employ legal counsel or make an expenditure or incur an
25 indebtedness for legal services, but the following are exempt from this
26 section:

27 1. The director of water resources.
28 2. The residential utility consumer office.
29 3. The industrial commission.
30 4. The Arizona board of regents.
31 5. The auditor general.
32 6. The corporation commissioners and the corporation commission other
33 than the securities division.
34 7. The advocate for private property rights.
35 8. The office of the governor.
36 9. The constitutional defense council.

37 **10. THE FUND MANAGER OF THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.**

38 F. If the attorney general determines that ~~he~~ **THE ATTORNEY GENERAL** is
39 disqualified from providing judicial or quasi-judicial legal representation
40 or legal services on behalf of any state agency in relation to any matter,
41 the attorney general shall give written notification to the state agency
42 affected. If the agency has received written notification from the attorney
43 general that the attorney general is disqualified from providing judicial or
44 quasi-judicial legal representation or legal services in relation to any
45 particular matter, the state agency is authorized to make expenditures and

1 incur indebtedness to employ attorneys to provide the representation or
2 services.

3 G. If the attorney general and the director of the department of
4 agriculture cannot agree on the final disposition of a pesticide complaint
5 under section 3-368, if the attorney general and the director determine that
6 a conflict of interest exists as to any matter or if the attorney general and
7 the director determine that the attorney general does not have the expertise
8 or attorneys available to handle a matter, the director is authorized to make
9 expenditures and incur indebtedness to employ attorneys to provide
10 representation or services to the department with regard to that matter.

11 H. Any department or agency of this state authorized by law to
12 maintain a legal division or incur expenses for legal services from funds
13 derived from sources other than the general revenue of the state, or from any
14 special or trust fund, shall pay from such source of revenue or special or
15 trust fund into the general fund of the state, to the extent such funds are
16 available and upon a reimbursable basis for warrants drawn, the amount
17 actually expended by the department of law within legislative appropriations
18 for such legal division or legal services.

19 I. Appropriations made pursuant to subsection H of this section shall
20 not be subject to lapsing provisions otherwise provided by law. Services for
21 departments or agencies to which this subsection and subsection G of this
22 section are applicable shall be performed by special or regular assistants to
23 the attorney general.

24 J. Notwithstanding ~~the provisions of~~ section 35-148, monies received
25 by the attorney general from charges to state agencies and political
26 subdivisions for legal services relating to interagency service agreements
27 shall be deposited, pursuant to sections 35-146 and 35-147, in an attorney
28 general agency services fund. Monies in the fund are subject to legislative
29 appropriation and are exempt from the provisions of section 35-190, relating
30 to lapsing of appropriations.

31 Sec. 48. Section 41-1001, Arizona Revised Statutes, is amended to
32 read:

33 41-1001. Definitions

34 In this chapter, unless the context otherwise requires:

35 1. "Agency" means any board, commission, department, officer or other
36 administrative unit of this state, including the agency head and one or more
37 members of the agency head or agency employees or other persons directly or
38 indirectly purporting to act on behalf or under the authority of the agency
39 head, whether created under the Constitution of Arizona or by enactment of
40 the legislature. Agency does not include the legislature, the courts, ~~or~~ the
41 governor, ~~THE FUND MANAGER OF THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM~~
42 ~~OR THE LOCAL BOARDS OF THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM AND THE~~
43 ~~CORRECTIONS OFFICER RETIREMENT PLAN.~~ Agency does not include a political
44 subdivision of this state or any of the administrative units of a political
45 subdivision, but does include any board, commission, department, officer or

1 other administrative unit created or appointed by joint or concerted action
 2 of an agency and one or more political subdivisions of this state or any of
 3 their units. To the extent an administrative unit purports to exercise
 4 authority subject to this chapter, an administrative unit otherwise
 5 qualifying as an agency must be treated as a separate agency even if the
 6 administrative unit is located within or subordinate to another agency.

7 2. "Code" means the Arizona administrative code.

8 ~~3. "Committee" means the administrative rules oversight committee.~~

9 ~~4.~~ 3. "Contested case" means any proceeding, including rate making,
 10 price fixing and licensing, in which the legal rights, duties or privileges
 11 of a party are required or permitted by law, other than this chapter, to be
 12 determined by an agency after an opportunity for an administrative hearing.

13 ~~5.~~ 4. "Council" means the governor's regulatory review council.

14 ~~6.~~ 5. "Delegation agreement" means an agreement between an agency and
 15 a political subdivision that authorizes the political subdivision to exercise
 16 functions, powers or duties conferred on the delegating agency by a provision
 17 of law. Delegation agreement does not include intergovernmental agreements
 18 entered into pursuant to title 11, chapter 7, article 3.

19 ~~7.~~ 6. "Emergency rule" means a rule that is made pursuant to section
 20 41-1026.

21 ~~8.~~ 7. "Fee" means a charge prescribed by an agency for an inspection
 22 or for obtaining a license.

23 ~~9.~~ 8. "Final rule" means any rule filed with the secretary of state
 24 and made pursuant to an exemption from this chapter in section 41-1005, made
 25 pursuant to section 41-1026, approved by the council pursuant to section
 26 41-1052 or 41-1053 or approved by the attorney general pursuant to section
 27 41-1044. For purposes of judicial review, final rule includes proposed
 28 summary rules having interim effect pursuant to section 41-1027.

29 ~~10.~~ 9. "License" includes the whole or part of any agency permit,
 30 certificate, approval, registration, charter or similar form of permission
 31 required by law, but it does not include a license required solely for
 32 revenue purposes.

33 ~~11.~~ 10. "Licensing" includes the agency process respecting the grant,
 34 denial, renewal, revocation, suspension, annulment, withdrawal or amendment
 35 of a license.

36 ~~12.~~ 11. "Party" means each person or agency named or admitted as a
 37 party or properly seeking and entitled as of right to be admitted as a party.

38 ~~13.~~ 12. "Person" means an individual, partnership, corporation,
 39 association, governmental subdivision or unit of a governmental subdivision,
 40 a public or private organization of any character or another agency.

41 ~~14.~~ 13. "Preamble" means:

42 (a) For any rule making subject to this chapter, a statement
 43 accompanying the rule that includes:

44 (i) Reference to the specific statutory authority for the rule.

1 (ii) The name and address of agency personnel with whom persons may
2 communicate regarding the rule.

3 (iii) An explanation of the rule, including the agency's reasons for
4 initiating the rule making.

5 (iv) A reference to any study relevant to the rule that the agency
6 reviewed and either proposes to rely on in its evaluation of or justification
7 for the rule or proposes not to rely on in its evaluation of or justification
8 for the rule, where the public may obtain or review each study, all data
9 underlying each study and any analysis of each study and other supporting
10 material.

11 (v) The economic, small business and consumer impact summary, or in
12 the case of a proposed rule, a preliminary summary and a solicitation of
13 input on the accuracy of the summary.

14 (vi) A showing of good cause why the rule is necessary to promote a
15 statewide interest if the rule will diminish a previous grant of authority of
16 a political subdivision of this state.

17 (vii) Such other matters as are prescribed by statute and that are
18 applicable to the specific agency or to any specific rule or class of rules.

19 (b) In addition to the information set forth in subdivision (a) of
20 this paragraph, for a proposed rule, the preamble also shall include a list
21 of all previous notices appearing in the register addressing the proposed
22 rule, a statement of the time, place and nature of the proceedings for the
23 making, amendment or repeal of the rule and where, when and how persons may
24 request an oral proceeding on the proposed rule if the notice does not
25 provide for one.

26 (c) In addition to the information set forth in subdivision (a) of
27 this paragraph, for a proposed summary rule, the preamble also shall include
28 a statement of the time, place and nature of the proceedings for the making,
29 amendment or repeal of the rule and an explanation of why summary proceedings
30 are justified.

31 (d) For a final rule, except an emergency rule, the preamble also
32 shall include, in addition to the information set forth in subdivision (a),
33 the following information:

34 (i) A list of all previous notices appearing in the register
35 addressing the final rule.

36 (ii) A description of the changes between the proposed rules,
37 including supplemental notices and final rules.

38 (iii) A summary of the comments made regarding the rule and the agency
39 response to them.

40 (iv) A summary of the council's action on the rule.

41 (v) A statement of the rule's effective date.

42 (e) In addition to the information set forth in subdivision (a) of
43 this paragraph, for an emergency rule, the preamble also shall include an
44 explanation of the situation justifying the rule being made as an emergency

rule, the date of the attorney general's approval of the rule and a statement of the emergency rule's effective date.

~~15-~~ 14. "Provision of law" means the whole or a part of the federal or state constitution, or of any federal or state statute, rule of court, executive order or rule of an administrative agency.

~~16-~~ 15. "Register" means the Arizona administrative register.

~~17-~~ 16. "Rule" means an agency statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of an agency. Rule includes prescribing fees or the amendment or repeal of a prior rule but does not include intraagency memoranda that are not delegation agreements.

~~18-~~ 17. "Rule making" means the process for formulation and finalization of a rule.

~~19-~~ 18. "Small business" means a concern, including its affiliates, ~~which~~ THAT is independently owned and operated, ~~which~~ THAT is not dominant in its field and ~~which~~ THAT employs fewer than one hundred full-time employees or ~~which~~ THAT had gross annual receipts of less than four million dollars in its last fiscal year. For purposes of a specific rule, an agency may define small business to include more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small businesses and organizations.

~~20-~~ 19. "Substantive policy statement" means a written expression ~~which~~ THAT informs the general public of an agency's current approach to, or opinion of, the requirements of the federal or state constitution, federal or state statute, administrative rule or regulation, or final judgment of a court of competent jurisdiction, including, where appropriate, the agency's current practice, procedure or method of action based upon that approach or opinion. A substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents ~~which~~ THAT only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties, confidential information or rules made in accordance with this chapter.

21. "Summary rule" means a rule that is made pursuant to section 41-1027.

Sec. 49. Conditional enactment

Section 38-881, Arizona Revised Statutes, as amended by Laws 2006, chapter 264, section 14 and chapter 308, section 2 and section 31 of this act, becomes effective on the date prescribed in Laws 2005, chapter 324, section 2 but only on the occurrence of the condition prescribed by Laws 2005, chapter 324, section 2.